

SUPREME COURT OF UTAH

Wickham v. Galetka

61 P.3d 978 (Utah 2002) · No. No. 20000716 · Decided July 26, 2002

SUMMARY

The Utah Supreme Court held that the State may appeal a final judgment granting post-conviction relief under Utah's Post-Conviction Remedies Act and Utah Rule of Civil Procedure 65C. The court concluded that newly discovered social-service records concerning the victim were merely impeachment evidence and did not justify a new trial. It also rejected alternative claims based on newly discovered eyewitness testimony and ineffective assistance of counsel, and reversed the order granting post-conviction relief.

CASE DETAILS

COURT	Supreme Court of Utah
WRITING FOR THE COURT	Howe, Justice; Durham, Chief Justice; Durrant, Associate Chief Justice; Russon, Justice; Wilkins, Justice
JURISDICTION	Utah
DECIDED	July 26, 2002
DOCKET	No. 20000716
DISPOSITION	reversed
PROCEDURAL POSTURE	The State appealed a post-conviction judgment vacating Wickham's convictions and ordering a new trial. Wickham moved to dismiss, arguing that the State could not appeal an order granting post-conviction relief.
STANDARD OF REVIEW	Questions arising from a judgment on a post-conviction-relief petition are reviewed for correctness, with no deference to the post-conviction court's legal conclusions.
PRECEDENTIAL VALUE	Published opinion; precedential decision of the Supreme Court of Utah.
PARTIES	Hank Galetka, Warden, Utah State Prison, State of Utah v. Christopher Wickham

TOPICS

state post-conviction relief

appellate procedure

impeachment

ineffective assistance

evidence

PRACTICE AREAS

Post-conviction criminal procedure

Appellate procedure

Evidence

Ineffective assistance of counsel

QUESTIONS PRESENTED

1. Whether the State had a right to appeal a final judgment granting post-conviction relief and ordering a new trial.
2. Whether the social-service and medical records constituted newly discovered evidence that was not merely impeachment evidence under Utah's Post-Conviction Remedies Act.
3. Whether testimony from Danny Pliego and Anthony Anderson independently satisfied the statutory requirements for newly discovered evidence warranting post-conviction relief.
4. Whether Wickham was entitled to post-conviction relief based on ineffective assistance of trial counsel.

HOLDINGS

1. The State had a right to appeal the final judgment and order granting post-conviction relief.
2. The social-service and medical records were merely impeachment evidence and therefore could not support post-conviction relief under the Act.
3. Neither witness's proposed testimony independently satisfied the statutory requirements for newly discovered evidence warranting post-conviction relief.
4. Wickham failed to establish ineffective assistance of counsel.

KEY QUOTATIONS

“Thus both the Act and rule 65C make it clear that either party may appeal from a final judgment or order on a petition for post-conviction relief.” (¶ 12)

“Because Wickham relies on this evidence for nothing more than to impeach the victim's testimony, it is merely impeachment evidence regardless of amount and type of witness testimony it seeks to impeach.” (¶ 15)

FACTUAL BACKGROUND

Wickham was convicted of two counts of aggravated sexual assault based principally on the testimony of a sixteen-year-old victim concerning an assault at a party. In post-conviction proceedings, Wickham sought social-service and medical records concerning the victim, and the court disclosed records after an in camera review. The records concerned the victim's credibility and ability to perceive and remember events but did not negate a specific element of the offenses. Wickham also relied on proposed testimony from eyewitnesses Danny Pliego and Anthony Anderson and alleged ineffective assistance of trial counsel.

PROCEDURAL HISTORY

Wickham was convicted by a jury of two counts of aggravated sexual assault and did not directly appeal. He later filed a pro se petition under Utah's Post-Conviction Remedies Act. After an in camera review of social-service records, the post-conviction court disclosed records it deemed material, vacated the convictions, and ordered a new trial. The State appealed, and the Utah Supreme Court reversed.

DISPOSITION

reversed

CASES CITED

- Parsons v. Barnes, 871 P.2d 516, 518 (Utah 1994)
- State v. Kelbach, 569 P.2d 1100, 1102 (Utah 1977)
- State v. Boyd, 2001 UT 30, ¶ 28, 25 P.3d 985, 993
- State v. Worthen, 765 P.2d 839, 851 (Utah 1988)
- State v. Julian, 2002 UT 61, ¶ 16, 771 P.2d 1061
- State v. Smith, 909 P.2d 236, 243 (Utah 1995)
- State v. Templin, 805 P.2d 182, 186 (Utah 1990)
- Strickland v. Washington, 466 U.S. 668, 687 (1984)
- State v. Dunn, 850 P.2d 1201, 1225 (Utah 1993)