

SUPREME COURT OF FLORIDA

Freeman v. State

858 So. 2d 319 (Fla. 2003) · No. SC01-2007 · Decided July 11, 2003

SUMMARY

The Supreme Court of Florida affirmed the denial of John D. Freeman’s motion for postconviction relief under Florida Rule of Criminal Procedure 3.850. The court rejected his claims that trial counsel was ineffective for failing to challenge alleged racial considerations in the State’s pursuit of the death penalty and for failing to present additional mitigating evidence.

CASE DETAILS

COURT	Supreme Court of Florida
WRITING FOR THE COURT	Per Curiam; Anstead, C.J.; Wells, J.; Pariente, J.; Lewis, J.; Quince, J.; Cantero, J.; Shaw, Senior Justice
JURISDICTION	Florida
DECIDED	July 11, 2003
DOCKET	SC01-2007
DISPOSITION	affirmed
PROCEDURAL POSTURE	Appeal from the denial, after an evidentiary hearing, of a motion for postconviction relief under Florida Rule of Criminal Procedure 3.850 in a capital case.
STANDARD OF REVIEW	The court deferred to the trial court's factual findings if supported by competent, substantial evidence and independently reviewed the deficiency and prejudice components of ineffective-assistance claims as mixed questions of law and fact. The ultimate questions whether counsel was deficient and whether prejudice resulted were reviewed de novo.
PRECEDENTIAL VALUE	Published Florida Supreme Court opinion; precedential.
PARTIES	John D. Freeman v. State of Florida

TOPICS

- state post-conviction relief
- ineffective assistance
- sentencing
- sixth amendment
- criminal procedure

PRACTICE AREAS

criminal law

post-conviction relief

capital sentencing

ineffective assistance of counsel

QUESTIONS PRESENTED

1. Whether trial counsel was ineffective for failing to challenge the State's alleged reliance on race in deciding to seek the death penalty.
2. Whether trial counsel was ineffective for failing to investigate and present additional lay and expert mitigation evidence concerning Freeman's abusive childhood, substance use, head injuries, and mental condition.
3. Whether counsel's failure to subpoena David Sorrells and present his testimony live at the penalty phase constituted ineffective assistance.

HOLDINGS

1. Freeman failed to establish prejudice from counsel's alleged inability to challenge the prosecutor's decision to seek the death penalty because the evidence did not show that the State relied on Freeman's race.
2. Counsel was not ineffective for failing to present additional testimony about Freeman's childhood abuse because the evidence was either unsupported, cumulative of mitigation presented at trial, or insufficiently connected to Freeman, and it would not have altered the balance of aggravating and mitigating circumstances.
3. Counsel was not ineffective for failing to provide additional information to the trial mental-health expert or present a different expert because the proposed testimony was substantially cumulative, speculative, and did not establish a reasonable probability of a different sentence.
4. Counsel's failure to subpoena Sorrells did not constitute prejudicial ineffective assistance because Sorrells's prior testimony was presented to the jury, and the decision not to subpoena him was supported by a tactical reason.

KEY QUOTATIONS

“For ineffective assistance of counsel claims raised in postconviction proceedings, the appellate court affords deference to findings of fact based on competent, substantial evidence and independently reviews deficiency and prejudice as mixed questions of law and fact.” (858 So. 2d at 323)

“Even if we assume defense counsel was deficient in his inability to address this issue at the time of trial, Freeman has failed to establish that the State relied on race when it decided to seek the death penalty, and thus has not demonstrated prejudice.” (858 So. 2d at 324)

“Although witnesses provided specific instances of abuse, such evidence merely would have lent further support to the conclusion that Cherry was abused by his father, a fact already known to the jury.” (858 So. 2d at 326)

“The fact that Freeman's postconviction counsel can support the mitigation with stronger evidence would not, with reasonable probability, alter the balance of aggravating and mitigating circumstances.” (858 So. 2d at 329)

FACTUAL BACKGROUND

Freeman was convicted of murdering Leonard Collier during a 1986 burglary and was sentenced to death. Collier caught Freeman burglarizing his home; after a struggle over a gun, Freeman repeatedly struck Collier in the head with it, causing his death. Freeman had committed a similar murder of Alvin Epps within the preceding twenty-two days. In postconviction proceedings, Freeman alleged that counsel failed to challenge racially motivated death-penalty prosecution and failed to investigate and present additional mitigation evidence.

PROCEDURAL HISTORY

Freeman was convicted of first-degree felony murder and sentenced to death. After the conviction and sentence were affirmed on direct appeal, the trial court summarily denied his initial Rule 3.850 motion. The Florida Supreme Court previously remanded one ineffective-assistance claim for an evidentiary hearing while affirming denial of the remaining claims and denying habeas relief. After the evidentiary hearing, the trial court denied relief, and Freeman appealed that denial.

DISPOSITION

affirmed

CASES CITED

- Freeman v. State, 761 So. 2d 1055 (Fla. 2000)
- Freeman v. State, 563 So. 2d 73 (Fla. 1990)
- Freeman v. State, 547 So. 2d 125 (Fla. 1989)
- State v. Bloom, 497 So. 2d 2, 3 (Fla. 1986)
- McCleskey v. Kemp, 481 U.S. 279 (1987)
- Stephens v. State, 748 So. 2d 1028, 1033-1034 (Fla. 2000)
- State v. Riechmann, 777 So. 2d 342 (Fla. 2000)
- Cherry v. State, 781 So. 2d 1040, 1048 (Fla. 2000)
- Stewart v. State, 801 So. 2d 59, 64-65 (Fla. 2001)
- Strickland v. Washington, 466 U.S. 668, 687, 697 (1984)
- Downs v. State, 740 So. 2d 506, 518 n. 19 (Fla. 1999)
- Gorby v. State, 819 So. 2d 664, 676 n. 11 (Fla. 2002)
- Gudinas v. State, 816 So. 2d 1095, 1106 (Fla. 2002)
- Jennings v. State, 583 So. 2d 316, 321 (Fla. 1991)
- Porter v. State, 788 So. 2d 917 (Fla. 2001)
- Blackwood v. State, 777 So. 2d 399 (Fla. 2000)

- Mahn v. State, 714 So. 2d 391 (Fla. 1998)
- Foster v. State, 679 So. 2d 747 (Fla. 1996)
- Johnson v. State, 660 So. 2d 637 (Fla. 1995)
- Gaskin v. State, 822 So. 2d 1243 (Fla. 2002)
- Melendez v. State, 612 So. 2d 1366, 1368 (Fla. 1992)
- Occhicone v. State, 768 So. 2d 1037, 1049 (Fla. 2000)
- Rose v. State, 675 So. 2d 567, 571 (Fla. 1996)

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