

SUPREME COURT OF ARKANSAS

True v. State

2017 Ark. 323 (2017) · No. CR-16-983 · Decided November 30, 2017

SUMMARY

The Arkansas Supreme Court affirmed the denial of Douglas David True’s pro se petition for postconviction relief under Arkansas Rule of Criminal Procedure 37.1. The court rejected claims that trial counsel inadequately investigated the case, failed to obtain a timely mental evaluation, and improperly advised True regarding the possibility of the death penalty before his guilty plea. The court held that the plea was voluntary and intelligent and that counsel was not ineffective.

CASE DETAILS

COURT	Supreme Court of Arkansas
WRITING FOR THE COURT	John Dan Kemp, Chief Justice
JURISDICTION	Arkansas
DECIDED	November 30, 2017
DOCKET	CR-16-983
DISPOSITION	affirmed
PROCEDURAL POSTURE	Appeal from the denial of a petition for postconviction relief under Arkansas Rule of Criminal Procedure 37.1 following guilty pleas to two counts of capital murder.
STANDARD OF REVIEW	The appellate court will not reverse a circuit court's findings granting or denying postconviction relief absent clear error. A finding is clearly erroneous when, after reviewing the totality of the evidence, the appellate court is left with a definite and firm conviction that a mistake has been committed.
PRECEDENTIAL VALUE	Published Arkansas Supreme Court opinion; precedential.
PARTIES	Douglas David True v. State of Arkansas

TOPICS

- state post-conviction relief
- ineffective assistance
- plea bargaining
- sentencing
- criminal procedure

PRACTICE AREAS

state post-conviction relief

criminal procedure

ineffective assistance of counsel

plea bargaining

capital sentencing

QUESTIONS PRESENTED

1. Whether trial counsel was ineffective for failing to investigate the case and develop an affirmative defense based on mental disease or defect.
2. Whether trial counsel was ineffective for failing to obtain a mental evaluation and complete military medical records before advising True to plead guilty.
3. Whether True's guilty plea was involuntary or resulted from ineffective assistance because counsel advised him that he faced a possible death sentence even though the prosecutor had not formally filed notice of intent to seek the death penalty.

HOLDINGS

1. The denial of postconviction relief will not be reversed absent clear error.
2. After a defendant pleads guilty, the cognizable Rule 37 claims are that the plea was not entered voluntarily and intelligently or that it was entered without effective assistance of counsel.
3. A defendant seeking to withdraw a guilty plea based on ineffective assistance must show both that counsel's representation fell below an objective standard of reasonableness and that, but for counsel's errors, there is a reasonable probability the defendant would not have pleaded guilty and would have insisted on trial.
4. True did not establish ineffective assistance based on counsel's alleged failure to investigate the case or develop an affirmative defense.
5. True failed to prove prejudice from counsel's alleged failure to request a mental evaluation earlier or obtain complete military medical records.
6. Counsel's advice that True faced a possible death sentence was not erroneous, and the circuit court did not clearly err in finding that True's guilty plea was voluntary and intelligent.
7. Voluntary intoxication does not negate criminal intent under Arkansas law, and the nature and extent of injuries may support an inference of intent despite a defendant's claimed lack of memory.

KEY QUOTATIONS

"Accordingly, to be entitled to withdraw a guilty plea due to ineffective assistance of counsel, the petitioner must show that counsel's representation fell below an objective standard of reasonableness, and that there is a reasonable probability that, but for counsel's unprofessional errors, the result of the proceeding would have been different in that the defendant must show that there is a reasonable probability that, but for counsel's error, he would not have pleaded guilty and would have insisted on going to trial." (2017 Ark. 323, at 4)

"We have held that fear of the death penalty is a valid basis for a voluntary and intelligent plea of guilty, regardless of whether the plea results from the certainty or the probability of a lesser penalty." (2017 Ark. 323, at 8)

FACTUAL BACKGROUND

True pleaded guilty to two counts of capital murder arising from the stabbing death of his pregnant girlfriend and the death of her unborn child. He alleged that he had consumed a large amount of alcohol, had no memory of the killing, and was pressured by counsel to plead guilty to avoid a possible death sentence. The postconviction mental evaluation concluded that he understood the proceedings, could assist in his defense, had no mental disease or defect impairing his legal capacities, and had antisocial personality disorder and alcohol-abuse disorder. Trial counsel testified that he investigated the case, obtained social-history and military records, and hired an investigator.

PROCEDURAL HISTORY

True pleaded guilty to two counts of capital murder on December 17, 2014. He filed a timely pro se Rule 37.1 petition alleging ineffective assistance of counsel and an involuntary guilty plea. The circuit court appointed postconviction counsel, ordered a mental evaluation, conducted an evidentiary hearing, and denied relief. The Supreme Court of Arkansas affirmed.

DISPOSITION

affirmed

CASES CITED

- State v. Herred, 332 Ark. 241, 251, 964 S.W.2d 391, 397 (1998)
- Polivka v. State, 2010 Ark. 152, at 4, 362 S.W.3d 918, 923
- Bryant v. State, 323 Ark. 130, 913 S.W.2d 257 (1996)
- Strickland v. Washington, 466 U.S. 668 (1984)
- Hill v. Lockhart, 474 U.S. 52 (1985)
- Henington v. State, 2012 Ark. 181, at 5, 403 S.W.3d 55, 59
- Thompson v. State, 307 Ark. 492, 821 S.W.2d 37 (1991)
- Simpson v. State, 339 Ark. 467, 471, 6 S.W.3d 104, 107 (1999)
- Spohn v. State, 310 Ark. 500, 502, 837 S.W.2d 873, 874 (1992)
- Camargo v. State, 327 Ark. 631, 638, 940 S.W.2d 464, 467-68 (1997)
- Williams v. State, 369 Ark. 104, 115, 251 S.W.3d 290, 298 (2007)
- Hill v. Lockhart, 894 F.2d 1009, 1010 (8th Cir. 1990)
- Huff v. State, 289 Ark. 404, 406, 711 S.W.2d 801, 802-03 (1986)
- Mitchell v. State, 271 Ark. 512, 525, 609 S.W.2d 333, 339 (1980)

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