

SUPREME COURT OF APPEALS OF WEST VIRGINIA

Clarence S. v. David Ballard, Warden

Clarence S. · No. No. 14-0356 · Decided November 21, 2014

SUMMARY

The Supreme Court of Appeals of West Virginia affirmed the summary denial of Clarence S.’s petition for a writ of habeas corpus. The court held that the circuit court did not abuse its discretion in denying relief without an evidentiary hearing or appointment of counsel, adopting the circuit court’s findings concerning ineffective assistance of counsel, newly discovered evidence, witness coaching, sentencing, and the indictment.

CASE DETAILS

COURT	Supreme Court of Appeals of West Virginia
WRITING FOR THE COURT	Per curiam; Chief Justice Robin Jean Davis; Justice Brent D. Benjamin; Justice Margaret L. Workman; Justice Menis E. Ketchum; Justice Allen H. Loughry II
JURISDICTION	West Virginia
DECIDED	November 21, 2014
DOCKET	No. 14-0356
DISPOSITION	affirmed
PROCEDURAL POSTURE	Petitioner appealed the Circuit Court of Fayette County’s summary denial of his petition for a writ of habeas corpus.
STANDARD OF REVIEW	In a habeas corpus action, the final order and ultimate disposition are reviewed for abuse of discretion, underlying factual findings for clear error, and questions of law de novo.
PRECEDENTIAL VALUE	Memorandum decision under West Virginia Rule of Appellate Procedure 21; the text does not state whether it has precedential effect.
PARTIES	Clarence S. v. David Ballard, Warden, Mt. Olive Correctional Complex

TOPICS

- state post-conviction relief
- habeas corpus
- ineffective assistance
- appellate procedure
- standard of review

PRACTICE AREAS

state post-conviction relief

criminal procedure

appellate procedure

habeas corpus

ineffective assistance

QUESTIONS PRESENTED

1. Whether the circuit court abused its discretion by summarily denying the habeas petition without an evidentiary hearing or appointment of counsel.
2. Whether the petitioner's claims of ineffective assistance of counsel, newly discovered evidence, witness coaching, sentencing error, and defective indictment required habeas relief or further proceedings.

HOLDINGS

1. A court with jurisdiction over a habeas proceeding may deny the petition without a hearing and without appointing counsel when the petition, exhibits, affidavits, or other documentary evidence show that the petitioner is entitled to no relief; the circuit court therefore did not abuse its discretion in summarily denying this petition.
2. The final order and ultimate disposition in a habeas corpus action are reviewed for abuse of discretion, underlying factual findings for clear error, and questions of law de novo.

KEY QUOTATIONS

“A court having jurisdiction over habeas corpus proceedings may deny a petition for a writ of habeas corpus without a hearing and without appointing counsel for the petitioner if the petition, exhibits, affidavits or other documentary evidence filed therewith show to such court’s satisfaction that the petitioner is entitled to no relief.” (at 3)

“We review the final order and the ultimate disposition under an abuse of discretion standard; the underlying factual findings under a clearly erroneous standard; and questions of law are subject to a de novo review.” (at 2)

FACTUAL BACKGROUND

Clarence S. was indicted on five counts each of second-degree sexual assault and sexual abuse by a parent, guardian, or custodian involving the twelve-year-old daughter of his girlfriend. He pleaded guilty to three counts of sexual abuse in exchange for dismissal of the remaining charges, admitting to oral and vaginal sexual acts with the victim. The circuit court imposed three consecutive ten-to-twenty-year sentences and later denied his habeas petition, which challenged counsel's performance, alleged newly discovered medical evidence, witness coaching, sentencing considerations, and the legality of the indictment.

PROCEDURAL HISTORY

Clarence S. pleaded guilty in 2007 to three counts of sexual abuse by a parent, guardian, or custodian and received three consecutive sentences of ten to twenty years. His direct appeal was refused in 2010. He filed a state habeas petition in December 2013, asserting ineffective assistance, newly discovered evidence, witness coaching, sentencing error, and defects in the indictment. The circuit court summarily denied the petition without an evidentiary hearing or appointment of counsel, and the Supreme Court of Appeals affirmed.

DISPOSITION

affirmed

CASES CITED

- State ex rel. W. Va. Department of Human Services v. Cheryl M., 177 W. Va. 688, 356 S.E.2d 181 (1987)
- Mathena v. Haines, 219 W. Va. 417, 633 S.E.2d 771 (2006)
- Perdue v. Coiner, 156 W. Va. 467, 194 S.E.2d 657 (1973)

Retrieved from lawtools.ai · <https://lawtools.ai/cases/state/west-virginia-supreme-court-of-appeals-of-west-virginia/2014/clarence-s-v-david-ballard-warden-gnv9wdaw>