

SUPREME COURT OF ARKANSAS

Booth v. Kelley

2016 Ark. 169 (2016) · No. CV-15-1063 · Decided April 14, 2016

SUMMARY

The Supreme Court of Arkansas affirmed the dismissal of Derrick L. Booth’s petition for a writ of habeas corpus. The court held that Booth failed to establish that the judgment was facially invalid or that the trial court lacked jurisdiction, despite the sentencing order having been signed by a retired judge assigned to serve temporarily in the case.

CASE DETAILS

COURT	Supreme Court of Arkansas
JURISDICTION	Arkansas
DECIDED	April 14, 2016
DOCKET	CV-15-1063
DISPOSITION	affirmed
PROCEDURAL POSTURE	Appeal from the dismissal of a petition for writ of habeas corpus by the Chicot County Circuit Court.
STANDARD OF REVIEW	The circuit court's decision on a petition for writ of habeas corpus is upheld unless clearly erroneous.
PRECEDENTIAL VALUE	Published Arkansas Supreme Court opinion; precedential.
PARTIES	Derrick L. Booth v. Wendy Kelley, Director, Arkansas Department of Correction

TOPICS

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

PRACTICE AREAS

- Criminal procedure
- Post-conviction relief
- Habeas corpus
- Appellate procedure

QUESTIONS PRESENTED

1. Whether Booth established that the judgment-and-commitment order was facially invalid or that the trial court lacked jurisdiction, as required for habeas corpus relief.

2. Whether a retired circuit judge temporarily assigned by the chief justice could validly sign Booth's sentencing order when a different judge presided over the trial.
3. Whether the assignment order had to appear in the official case record for the temporary judge's authority to be effective.

HOLDINGS

1. A habeas petitioner who does not proceed under the statutory actual-innocence procedure must plead either that the judgment is facially invalid or that the trial court lacked jurisdiction, and must support the claim with probable-cause evidence of illegal detention. Booth failed to make that showing.
2. A retired circuit judge assigned by the chief justice under Arkansas law and the Arkansas Constitution may temporarily serve in circuit court and validly sign a sentencing order in place of the trial judge.
3. An assignment order issued by the chief justice need not be included in the case record to be effective and to confer authority on the temporarily assigned judge.

KEY QUOTATIONS

“A writ of habeas corpus is proper when a judgment of conviction is invalid on its face or when a circuit court lacks jurisdiction over the cause.” (2016 Ark. 169, at 2)

“Administrative Order No. 16 does not require the assignment order issued by the chief justice to be included in the record for the case for it to be an effective order that bestows authority on the judge temporarily assigned to a case.” (2016 Ark. 169, at 2)

FACTUAL BACKGROUND

Booth was convicted of arson and sentenced as a habitual offender to 144 months' imprisonment. Judge Wendell Griffen presided over the trial, while retired circuit judge Phillip Shirron, who had been assigned by the chief justice to sit temporarily in circuit court, signed the sentencing order. Booth did not contend that the sentence in the judgment-and-commitment order differed from the sentence pronounced in open court; instead, he argued that the different judge's signature and the absence of the assignment order from the case record rendered the judgment invalid.

PROCEDURAL HISTORY

Booth was convicted by a jury of arson in 2013 and sentenced as a habitual offender to 144 months' imprisonment. The Arkansas Court of Appeals affirmed his conviction. In 2015, while incarcerated in Chicot County, Booth filed a pro se habeas petition seeking release, arguing that the judgment-and-commitment order was facially invalid and that the trial court lacked jurisdiction because a different judge signed the sentencing order. The Chicot County Circuit Court dismissed the petition for failure to state a ground for habeas relief, and the Supreme Court of Arkansas affirmed.

DISPOSITION

affirmed

CASES CITED

- Booth v. State, 2014 Ark. App. 572, 444 S.W.3d 900
- Hobbs v. Gordon, 2014 Ark. 225, 434 S.W.3d 364
- Philyaw v. Kelley, 2015 Ark. 465, 477 S.W.3d 503
- Fields v. Hobbs, 2013 Ark. 416

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