

SUPREME COURT OF VIRGINIA

Smith v. Brown, 291 Va. 260

781 S.E.2d 744 (2016) · No. Record No. 141487 · Decided February 12, 2016

SUMMARY

The Supreme Court of Virginia held that the circuit court erred by summarily dismissing Eldesa Smith’s habeas corpus petition without receiving additional evidence concerning her ineffective-assistance claim. The court reversed and remanded for an evidentiary hearing and findings regarding whether counsel adequately advised Smith before she pleaded guilty to felony murder and whether she suffered prejudice.

CASE DETAILS

COURT	Supreme Court of Virginia
WRITING FOR THE COURT	Justice D. Arthur Kelsey; All the Justices
JURISDICTION	Virginia
DECIDED	February 12, 2016
DOCKET	Record No. 141487
DISPOSITION	reversed_and_remanded
PROCEDURAL POSTURE	Smith appealed the Circuit Court of the City of Danville's dismissal of her habeas corpus petition on the pleadings without an evidentiary hearing or affidavits.
STANDARD OF REVIEW	The Supreme Court reviewed whether the circuit court properly summarily dismissed the habeas petition on the pleadings. The petitioner bears the burden of proving factual allegations by a preponderance of the evidence; ineffective-assistance claims require proof of deficient performance and prejudice under prevailing professional norms.
PRECEDENTIAL VALUE	Published precedential opinion of the Supreme Court of Virginia
PARTIES	Eldesa C. Smith v. Tammy Brown, Warden, Virginia Department of Corrections

TOPICS

- state post-conviction relief
- ineffective assistance
- plea bargaining
- habeas corpus
- criminal procedure

PRACTICE AREAS

State post-conviction relief

Criminal procedure

Ineffective assistance of counsel

Plea bargaining

Habeas corpus

QUESTIONS PRESENTED

1. Whether the circuit court could summarily dismiss Smith's habeas petition on the pleadings when the petition made specific ineffective-assistance allegations and the existing record did not resolve disputed material facts.
2. What evidence and findings the circuit court must consider on remand in evaluating Smith's ineffective-assistance claim arising from her guilty plea.
3. Whether a successful challenge to one conviction arising from a consolidated plea agreement would permit the remaining conviction to stand.

HOLDINGS

1. When a habeas petition makes prima facie allegations that are not sufficiently resolved by the recorded matters, the habeas court should receive additional evidence and decide genuine issues of material fact rather than dismissing the petition solely on the pleadings.
2. A habeas petitioner challenging counsel's advice concerning a guilty plea is not subject to summary dismissal when she alleges a specific and valid reason to disavow contrary plea-colloquy declarations and the existing record does not resolve the allegation.
3. On remand, Smith must prove by a preponderance of the evidence that counsel's representation fell below prevailing professional norms and that, but for counsel's deficient advice, a reasonable defendant under the circumstances would not have pleaded guilty and would have insisted on trial.
4. Because the felony-murder and distribution convictions arose from a single consolidated plea agreement, successful habeas relief concerning the felony-murder conviction would require vacating the entire plea agreement rather than selectively preserving the remaining conviction.

KEY QUOTATIONS

"However, when a habeas petition makes prima facie allegations that are not sufficiently resolved on this basis, a circuit court should receive additional evidence and decide any genuine issues of material fact." (291 Va. at 263)

"In this case, Smith proffered a specific and valid reason why her petition should not be summarily dismissed." (291 Va. at 264)

"Under these circumstances, the court should have received additional evidence beyond the recorded matters to determine whether counsel's representation 'fell below an objective standard of reasonableness.'" (291 Va. at 265)

"In sum, we reverse the circuit court's summary dismissal of Smith's habeas corpus petition and remand the case for further proceedings consistent with this opinion." (291 Va. at 267)

FACTUAL BACKGROUND

In 2011, Smith pleaded guilty under a plea agreement to felony murder under Code § 18.2-33 and distribution of a Schedule I controlled substance as an accommodation. Before the plea, trial counsel sent Smith a letter stating that she was charged with murder under Code § 18.2-32 and that the charge would be reduced to manslaughter, but the letter did not specifically discuss felony-murder principles or the applicable *res gestae* factors. Smith alleged that counsel failed to investigate the evidence and felony-murder doctrine and failed to provide competent advice concerning the plea.

PROCEDURAL HISTORY

Smith pleaded guilty pursuant to a plea agreement to felony murder and distribution of a Schedule I controlled substance as an accommodation. She later filed a habeas corpus petition challenging the felony-murder conviction and sentence, alleging ineffective assistance in investigating the charge and advising her whether to plead guilty. The circuit court dismissed the petition without receiving evidence. The Supreme Court of Virginia reversed and remanded for presentation of evidence and reconsideration with findings on disputed material facts.

DISPOSITION

reversed_and_remanded

REMAND INSTRUCTIONS

The circuit court must receive additional evidence, including affidavits or an evidentiary hearing as necessary, resolve genuine disputes of material fact, determine whether counsel's performance was deficient and prejudicial, and enter a final order containing findings of fact and conclusions of law addressing the grounds for relief and the scope of any writ.

CASES CITED

- Shaikh v. Johnson, 276 Va. 537, 666 S.E.2d 325 (2008)
- Friedline v. Commonwealth, 265 Va. 273, 576 S.E.2d 491 (2003)
- Arey v. Peyton, 209 Va. 370, 164 S.E.2d 691 (1968)
- Yeatts v. Murray, 249 Va. 285, 455 S.E.2d 18 (1995)
- Mu'Min v. Commonwealth, 239 Va. 433, 389 S.E.2d 886 (1990)
- Anderson v. Warden, 222 Va. 511, 281 S.E.2d 885 (1981)
- Blackledge v. Allison, 431 U.S. 63 (1977)
- Strickland v. Washington, 466 U.S. 668 (1984)
- Fuentes v. Clarke, 290 Va. 432, 777 S.E.2d 550 (2015)
- Premo v. Moore, 562 U.S. 115 (2011)
- Harrington v. Richter, 562 U.S. 86 (2011)
- Hill v. Lockhart, 474 U.S. 52 (1985)
- Lewis v. Warden, 274 Va. 93, 645 S.E.2d 492 (2007)

- Missouri v. Frye, 566 U.S. 133, 132 S. Ct. 1399 (2012)
- Lafler v. Cooper, 566 U.S. 156, 132 S. Ct. 1376 (2012)
- Zemene v. Clarke, 289 Va. 303, 768 S.E.2d 684 (2015)
- Padilla v. Kentucky, 559 U.S. 356 (2010)
- United States v. Lewis, 138 F.3d 840 (10th Cir. 1998)
- United States v. Barnes, 83 F.3d 934 (7th Cir. 1996)

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