

SUPREME COURT OF UTAH

Carter v. State

2015 UT 38 · No. 20130517 · Decided February 20, 2015

SUMMARY

The Utah Supreme Court affirms the denial of Douglas Stewart Carter’s Utah Rule of Civil Procedure 60(b) motion as untimely because it was based on newly discovered evidence and filed more than 90 days after judgment. The court reverses the dismissal of Carter’s third post-conviction petition, holding that the district court’s subject matter jurisdiction was not affected by the clerk’s assignment of the prior petition’s case number. The court remands with instructions to assign the third petition a new case number and to use its original filing date.

CASE DETAILS

COURT	Supreme Court of Utah
WRITING FOR THE COURT	Justice Durham; Chief Justice Durrant; Associate Chief Justice Nehring; Justice Parrish; Justice Lee
JURISDICTION	Utah
DECIDED	February 20, 2015
DOCKET	20130517
DISPOSITION	reversed_and_remanded
PROCEDURAL POSTURE	Carter separately appealed the district court's denial of his Utah Rule of Civil Procedure 60(b) motion and dismissal of his Third Petition for post-conviction relief for lack of subject matter jurisdiction. The appeals were consolidated.
STANDARD OF REVIEW	The denial of a Rule 60(b) motion is ordinarily reviewed for abuse of discretion, but underlying legal interpretations of the rule are reviewed for correctness. A district court's determination that it lacked subject matter jurisdiction is reviewed for correctness.
PRECEDENTIAL VALUE	precedential
PARTIES	Douglas Stewart Carter v. State of Utah

TOPICS

- post-conviction relief
- successive petitions
- subject matter jurisdiction
- civil procedure
- appellate procedure

PRACTICE AREAS

post-conviction relief

criminal procedure

appellate procedure

civil procedure

QUESTIONS PRESENTED

1. Whether Carter's Rule 60(b) motion based on newly discovered evidence was timely when filed more than two years after judgment and whether the Rule 60(b)(6) catchall could be used to avoid the ninety-day limit in Rule 60(b)(2).
2. Whether the district court had subject matter jurisdiction over Carter's Third Petition for post-conviction relief when the clerk filed it under the case number assigned to Carter's earlier petition.

HOLDINGS

1. A Rule 60(b) motion based on newly discovered evidence under Rule 60(b)(2) must be filed no more than ninety days after judgment, and a party may not use Rule 60(b)(6)'s catchall provision to circumvent that deadline merely because the evidence was allegedly suppressed by the State.
2. The district court had subject matter jurisdiction over Carter's Third Petition regardless of the case number assigned by the clerk; filing the petition under the earlier petition's case number was a clerical error, not a jurisdictional defect.

KEY QUOTATIONS

“Assignment of case numbers is a ministerial duty undertaken by the clerks of court for the convenience of the court; it does not confer upon nor deprive the court of constitutional or statutory authority to decide a case.”
(¶ 20)

“We hold that the district court had subject matter jurisdiction over Mr. Carter’s Third Petition regardless of the case number assigned to it.” (¶ 24)

FACTUAL BACKGROUND

Carter was convicted of first-degree murder and sentenced to death based in part on testimony from Epifanio and Lucia Tovar. Decades after trial, the Tovars provided affidavits stating that police had provided their family housing, utilities, food, and other assistance and had threatened them in connection with their cooperation. Carter filed a Rule 60(b) motion and a successive post-conviction petition based on this newly discovered evidence.

PROCEDURAL HISTORY

Carter was convicted of first-degree murder and sentenced to death. After direct and post-conviction proceedings, he filed a Rule 60(b) motion based on newly discovered evidence concerning trial witnesses and later filed a Third Petition for post-conviction relief based on the same evidence. The district court denied the Rule 60(b) motion as untimely and dismissed the Third Petition because the clerk had filed it under the case number assigned to Carter's Second Petition. The Utah Supreme Court affirmed the Rule 60(b) ruling, reversed the jurisdictional dismissal, and remanded.

DISPOSITION

reversed_and_remanded

REMAND INSTRUCTIONS

The district court must assign Carter's Third Petition a new case number and treat March 27, 2012, as the relevant original filing date for all purposes. The court expressed no opinion on the petition's merits or whether it could survive the PCRA's procedural bars.

CASES CITED

- State v. Carter, 776 P.2d 886 (Utah 1989)
- State v. Carter, 888 P.2d 629 (Utah 1995)
- Carter v. Galetka, 2001 UT 96, 44 P.3d 626
- Carter v. State, 2012 UT 69, 289 P.3d 542
- Brady v. Maryland, 373 U.S. 83 (1963)
- Fisher v. Bybee, 2004 UT 92, ¶ 7, 104 P.3d 1198
- Kell v. State, 2012 UT 25, ¶ 7, 285 P.3d 1133
- Beaver County v. Qwest, Inc., 2001 UT 81, ¶ 8, 31 P.3d 1147
- Laub v. S. Cent. Utah Tel. Ass'n, 657 P.2d 1304, 1306-07 (Utah 1982)
- Kanzee v. Kanzee, 668 P.2d 495, 497 (Utah 1983)
- J.M.W. v. T.I.Z. (In re Adoption of Baby E.Z.), 2011 UT 38, ¶ 30, 266 P.3d 702
- Johnson v. Johnson, 2010 UT 28, ¶ 9, 234 P.3d 1100
- Schaab v. State, 33 So. 3d 763, 765-66 (Fla. Dist. Ct. App. 2010)
- Navajo Nation v. State (In re Adoption of L.O.), 2012 UT 23, ¶ 8, 282 P.3d 977