

SUPREME COURT OF FLORIDA

Tate v. McNeil

983 So. 2d 502 (Fla. 2008) · No. SC07-689 · Decided March 13, 2008

SUMMARY

The Supreme Court of Florida dismissed James L. Tate, Jr.'s habeas corpus petition as unauthorized and considered sanctions based on his repeated filings challenging the same conviction and sentence. The court ordered the clerk to reject future pro se filings by Tate concerning that conviction unless signed by a member in good standing of The Florida Bar, while preserving his ability to seek relief through counsel.

CASE DETAILS

COURT	Supreme Court of Florida
WRITING FOR THE COURT	Per Curiam; Lewis, C.J.; Wells, J.; Anstead, J.; Pariente, J.; Quince, J.; Cantero, J.; Bell, J.
JURISDICTION	Florida
DECIDED	March 13, 2008
DOCKET	SC07-689
DISPOSITION	other
PROCEDURAL POSTURE	Tate filed a pro se petition styled as a petition for writ of mandamus, which the Supreme Court of Florida treated as a petition for writ of habeas corpus. The Court had dismissed the petition as unauthorized and retained jurisdiction to determine whether Tate should be sanctioned for repetitive filings.
STANDARD OF REVIEW	The Court reviewed the petitioner's filings and response to the show-cause order to determine whether sanctions were warranted for abuse of the Court's processes.
PRECEDENTIAL VALUE	Published Florida Supreme Court opinion; precedential.
PARTIES	James L. Tate, Jr. v. Walter A. McNeil, etc.

TOPICS

- state post-conviction relief
- successive petitions
- sanctions
- appellate procedure
- writ of certiorari

PRACTICE AREAS

state post-conviction relief

appellate procedure

filing sanctions

QUESTIONS PRESENTED

1. Whether Tate showed cause why he should not be sanctioned and barred from making further pro se filings concerning his conviction and sentence.
2. Whether the Supreme Court of Florida could require that future filings concerning the conviction and sentence be signed by a member in good standing of The Florida Bar.

HOLDINGS

1. Tate failed to show cause why he should not be sanctioned because his response merely reargued the merits of claims that had repeatedly been presented in unsuccessful or unauthorized proceedings.
2. The Clerk of the Florida Supreme Court may reject future pleadings, petitions, motions, documents, or other filings submitted by Tate concerning case 93-580CFA unless they are signed by a member in good standing of The Florida Bar.

KEY QUOTATIONS

“Accordingly, in order to preserve the right of access for all litigants and promote the interests of justice, the Clerk of this Court is hereby instructed to reject for filing any future pleadings, petitions, motions, documents, or other filings submitted by James L. Tate, Jr., that are related to his conviction and sentence in case 93-580CFA, unless signed by a member in good standing of The Florida Bar.” (504)

“Under the sanction herein imposed, Tate is not wholesale being denied access to the courts.” (504)

FACTUAL BACKGROUND

Tate was convicted by a jury on December 22, 1994, of attempted first-degree murder in Martin County, Florida. His judgment and sentence became final after the Fourth District Court of Appeal affirmed. Since July 2002, Tate had initiated eighteen proceedings in the Florida Supreme Court concerning the same conviction and sentence, none of which resulted in the relief requested. His current petition and later filings repeated claims seeking to vacate the conviction and sentence.

PROCEDURAL HISTORY

Tate was convicted of attempted first-degree murder in the Nineteenth Judicial Circuit in Martin County, Florida, and the judgment and sentence were affirmed by the Fourth District Court of Appeal. After numerous unsuccessful proceedings concerning the conviction and sentence, Tate filed the present petition and several amendments. The Supreme Court dismissed the petition on October 31, 2007, ordered Tate to show cause why he should not be barred from future pro se filings concerning the conviction and sentence, and, after reviewing his response, imposed filing sanctions.

DISPOSITION

other

CASES CITED

- Tate v. State, 671 So. 2d 798 (Fla. 4th DCA 1996) (table)
- Baker v. State, 878 So. 2d 1236 (Fla. 2004)
- Martin v. District of Columbia Court of Appeals, 506 U.S. 1, 113 S.Ct. 397, 121 L.Ed.2d 305 (1992)
- In re Sindram, 498 U.S. 177, 111 S.Ct. 596, 112 L.Ed.2d 599 (1991)
- In re McDonald, 489 U.S. 180, 184, 109 S.Ct. 993, 103 L.Ed.2d 158 (1989)
- Sibley v. Fla. Jud. Qual. Comm'n, 973 So. 2d 425 (Fla. 2006)
- Lanier v. State, 908 So. 2d 332 (Fla. 2005)
- Jean v. State, 906 So. 2d 1055 (Fla. 2005)
- Armstead v. State, 817 So. 2d 841 (Fla. 2002)
- Peterson v. State, 817 So. 2d 838, 840 (Fla. 2002)
- Jackson v. Fla. Dep't of Corr., 790 So. 2d 398 (Fla. 2001)
- Rivera v. State, 728 So. 2d 1165 (Fla. 1998)
- Attwood v. Singletary, 661 So. 2d 1216 (Fla. 1995)
- Tate v. McDonough, 944 So. 2d 346 (Fla. 2006)
- Tate v. McDonough, 937 So. 2d 1100 (Fla.)
- Tate v. State, 937 So. 2d 666 (Fla.)
- Pettway v. State, 776 So. 2d 930 (Fla. 2000)
- Huffman v. State, 813 So. 2d 10 (Fla. 2000)
- Stallworth v. Moore, 827 So. 2d 974 (Fla. 2002)
- Jenkins v. State, 385 So. 2d 1356 (Fla. 1980)