

SUPREME COURT OF MISSOURI

Matthews v. State

175 S.W.3d 110 (Mo. banc 2005) · No. SC 86784 · Decided October 18, 2005

SUMMARY

The Supreme Court of Missouri held that Ecclesiastes Matthews was entitled under Missouri Rule 32.03 to a change of venue to another county, rather than merely to another district within Marion County. Nevertheless, the court concluded that Matthews failed to plead facts showing actual prejudice from counsel's failure to object to the improper venue change, and therefore was not entitled to an evidentiary hearing under Rule 29.15. The court also rejected his additional ineffective-assistance claims concerning a surveillance tape, jury selection, and alternative sources of drugs, affirming the motion court's judgment.

CASE DETAILS

COURT	Supreme Court of Missouri
WRITING FOR THE COURT	Mary R. Russell
JURISDICTION	Missouri
DECIDED	October 18, 2005
DOCKET	SC 86784
DISPOSITION	affirmed
PROCEDURAL POSTURE	Appeal from the denial, without an evidentiary hearing, of a Rule 29.15 motion for post-conviction relief alleging ineffective assistance of trial counsel. The Missouri Supreme Court granted transfer after an opinion by the Court of Appeals, Eastern District.
STANDARD OF REVIEW	The denial of Rule 29.15 relief is reviewed for clear error. An evidentiary hearing is required only when the movant pleads facts, rather than conclusions, that warrant relief, the alleged facts are not refuted by the record, and the alleged matters resulted in prejudice. Ineffective-assistance claims require allegations showing deficient performance and prejudice under Strickland.
PRECEDENTIAL VALUE	Published en banc opinion of the Supreme Court of Missouri; precedential.
PARTIES	Ecclesiastes Matthews v. State of Missouri

TOPICS

state post-conviction relief ineffective assistance criminal procedure appellate procedure due process

PRACTICE AREAS

state post-conviction relief criminal procedure ineffective assistance appellate procedure

QUESTIONS PRESENTED

1. Whether Rule 32.03 required transfer of Matthews's criminal case to another county rather than to another district within Marion County.
2. Whether counsel's failure to object to the improper venue transfer entitled Matthews to an evidentiary hearing or post-conviction relief absent pleaded facts showing actual Strickland prejudice.
3. Whether counsel was ineffective for deciding not to play the surveillance tape.
4. Whether counsel was ineffective for failing to challenge the jury-selection process and for failing to present evidence of alternative drug sources.

HOLDINGS

1. A defendant who timely applies for a Rule 32.03 change of venue in a county having 75,000 or fewer inhabitants is entitled to transfer to another county; transfer between districts within the same county does not satisfy the rule.
2. Matthews was not entitled to an evidentiary hearing or post-conviction relief because he failed to plead facts showing that counsel's failure to object caused actual prejudice under Strickland.
3. The motion court properly denied an evidentiary hearing on the surveillance-tape claim because the decision was a trial-strategy choice and Matthews failed to plead facts showing unreasonable performance and prejudice.
4. The motion court properly denied an evidentiary hearing because Matthews failed to plead facts showing prejudice from counsel's failure to challenge jury selection or present alternative-source evidence. His freestanding constitutional jury-selection claims were not cognizable under Rule 29.15 absent exceptional circumstances explaining why they were not raised on direct appeal.

KEY QUOTATIONS

"Rule 32.03(c) clearly states that the transfer is to "some other county."" (113)

"As such, a transfer to a different district within the same county does not satisfy Rule 32.03." (114)

"The present appeal relates to Movant's claim of ineffective assistance of counsel under Rule 29.15." (114)

"Movant did not plead that the failure to transfer the case to another county, rather than another district within the same county, resulted in any actual prejudice." (115)

"Movant failed to plead facts showing that his trial counsel was ineffective and that he suffered Strickland prejudice." (116)

FACTUAL BACKGROUND

Matthews was charged with two felony drug offenses in Marion County, a county with fewer than 75,000 inhabitants. The trial court granted his Rule 32.03 change-of-venue request but transferred the case only from the Hannibal district to the Palmyra district within Marion County, rather than to another county; counsel did not object. Matthews was convicted and sentenced to two consecutive twenty-five-year prison terms. In his Rule 29.15 motion, he alleged that counsel was ineffective for failing to object to the venue transfer, failing to play a surveillance tape, failing to challenge jury selection, and failing to present evidence of alternative drug sources.

PROCEDURAL HISTORY

Matthews was convicted of two felony drug offenses in the Marion County Circuit Court and received two consecutive twenty-five-year prison terms as a prior offender. His direct appeal was affirmed. He then filed a Rule 29.15 motion alleging several instances of ineffective assistance, but the motion court denied relief and an evidentiary hearing. The Court of Appeals issued an opinion, after which the Supreme Court of Missouri granted transfer and affirmed the motion court's judgment.

DISPOSITION

affirmed

CASES CITED

- Smulls v. State, 71 S.W.3d 138, 147 (Mo. banc 2002)
- Coates v. State, 939 S.W.2d 912, 914 (Mo. banc 1997)
- Strickland v. Washington, 466 U.S. 668, 681, 687, 689, 692, 694 (1984)
- Moss v. State, 10 S.W.3d 508, 513 (Mo. banc 2000)
- Smith v. Robbins, 528 U.S. 259, 287 (2000)
- Taylor v. State, 126 S.W.3d 755, 762 (Mo. banc 2004)
- State v. Redman, 916 S.W.2d 787, 793 (Mo. banc 1996)
- State v. Matthews, 99 S.W.3d 494 (Mo. App. 2003)

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