

SUPREME COURT OF PENNSYLVANIA

Commonwealth v. Fears

No. 781 CAP (Pa. May 18, 2021) (Opinion in Support of Reversal) · No. 781 CAP · Decided May 18, 2021

SUMMARY

This opinion addresses Leroy Fears’s serial petition under Pennsylvania’s Post Conviction Relief Act, which alleged that former Justice J. Michael Eakin’s participation in an earlier appeal created an unconstitutional risk of judicial bias. Justice Wecht would reject dismissal based on timeliness or the merits at that stage because the PCRA court had denied discovery and had not adequately developed the factual record. The opinion would vacate the dismissal order and remand for additional fact-finding.

CASE DETAILS

COURT	Supreme Court of Pennsylvania
WRITING FOR THE COURT	Justice Wecht; Justice Donohue
JURISDICTION	Pennsylvania
DECIDED	May 18, 2021
DOCKET	781 CAP
DISPOSITION	reversed_and_remanded
PROCEDURAL POSTURE	Appeal from the dismissal of a serial petition under Pennsylvania's Post Conviction Relief Act challenging the participation of former Justice J. Michael Eakin in an earlier collateral appeal based on alleged judicial bias.
STANDARD OF REVIEW	The opinion reviews PCRA jurisdiction and the need for factual development concerning newly discovered facts and alleged appellate judicial bias. It emphasizes that fact-intensive issues concerning a petitioner's knowledge and due diligence should be addressed by the PCRA court in the first instance.
PRECEDENTIAL VALUE	Published opinion in support of reversal; the text is a separate opinion rather than an identified majority opinion.
PARTIES	Leroy Fears v. Commonwealth of Pennsylvania

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QUESTIONS PRESENTED

1. Whether Fears satisfied the PCRA newly discovered facts exception by alleging that information concerning Justice Eakin's emails was unknown to him and could not have been discovered through due diligence.
2. Whether the former public-records presumption could be used to reject Fears's newly discovered facts claim after that presumption was abolished in *Commonwealth v. Small*.
3. Whether the PCRA court should have permitted discovery and conducted an evidentiary hearing concerning Fears's knowledge, due diligence, and the objective risk of judicial bias arising from Justice Eakin's emails.
4. Whether an appellate-level judicial-bias claim is cognizable under the PCRA and, if proven, requires a new appeal without participation by the allegedly biased jurist.

HOLDINGS

1. The public availability of information does not establish that the information was known to the PCRA petitioner or that the petitioner could have discovered it through due diligence; those questions require a circumstance-dependent inquiry into the petitioner's actual knowledge and capacity to discover the facts.
2. A claim that an appellate jurist had an unconstitutional likelihood or appearance of bias should be developed through discovery and, where appropriate, an evidentiary hearing in the PCRA court before appellate merits review.
3. A due process challenge to the impartiality of an appellate jurist is cognizable under 42 Pa.C.S. § 9543(a)(2)(i), and if the claim is proven, the remedy is a new appeal before the appellate tribunal without participation by the biased jurist.

KEY QUOTATIONS

“In requiring that the facts be unknown to the petitioner, the statute itself contains no exception, express or constructive, regarding information that is of public record.” (17)

“This Court has no inherent insight into the degree of public information available to a given prisoner, which may vary by prison, let alone one contending with the restrictions placed upon a capital defendant.” (19)

“The proper forum to consider the allegations and evidence of judicial bias is the PCRA court.” (23)

FACTUAL BACKGROUND

Fears pleaded guilty to murdering twelve-year-old Shawn Hagan and was sentenced to death in 1995. In his first counseled PCRA petition, he raised claims concerning counsel's failure to present mitigating evidence, including alleged childhood sexual abuse and mental-health-related evidence; the Supreme Court of Pennsylvania rejected those claims in 2014 in an opinion authored by Justice Eakin. After disclosure in 2015 of emails associated with Justice Eakin containing racist, homophobic, misogynistic, and otherwise offensive material, Fears alleged that Eakin's participation in the 2014 appeal created an unconstitutional risk or appearance of judicial bias.

PROCEDURAL HISTORY

Fears pleaded guilty to first-degree murder and related charges and received a death sentence in 1995. After reinstatement of his appellate rights, the Supreme Court of Pennsylvania affirmed his judgment of sentence in 2003 and later affirmed denial of his first counseled PCRA petition in 2014 in an opinion authored by Justice Eakin. Fears filed the present serial PCRA petition in 2016 after public disclosure of offensive emails connected to Justice Eakin, seeking discovery, an evidentiary hearing, and relief based on judicial bias. The PCRA court denied discovery and a hearing and dismissed the petition; this opinion would vacate and remand for further factual development.

DISPOSITION

reversed_and_remanded

REMAND INSTRUCTIONS

Vacate the PCRA court's dismissal order and remand for additional fact-finding concerning whether Fears was duly diligent in raising his claim, whether the governmental-interference exception applies, and, if jurisdiction is established, the factual development of the alleged judicial-bias claim through appropriate discovery and an evidentiary hearing.

CASES CITED

- Commonwealth v. Fears, 86 A.3d 795 (Pa. 2014)
- Commonwealth v. Fears, 836 A.2d 52 (Pa. 2003)
- Fears v. Pennsylvania, 545 U.S. 1141 (2005)
- Commonwealth v. Grant, 813 A.2d 726 (Pa. 2002)
- Commonwealth v. Robinson, 204 A.3d 326 (Pa. 2018)
- Commonwealth v. Blakeney, 193 A.3d 350 (Pa. 2018)
- Commonwealth v. Bennett, 930 A.2d 1264 (Pa. 2007)
- Commonwealth v. Koehler, 229 A.3d 915 (Pa. 2020)
- Commonwealth v. Reid, 235 A.3d 1124 (Pa. 2020)
- Commonwealth v. Small, 238 A.3d 1267 (Pa. 2020)
- Commonwealth v. Taylor, 67 A.3d 1245 (Pa. 2013)
- Commonwealth v. Chester, 895 A.2d 520 (Pa. 2006)
- Commonwealth v. Whitney, 817 A.2d 473 (Pa. 2003)

- Commonwealth v. Lark, 746 A.2d 585 (Pa. 2000)
- In re Glancey, 527 A.2d 997 (Pa. 1987)
- In re Eakin, 150 A.3d 1042 (Pa. Ct. Jud. Disc. 2016) (per curiam)
- Williams v. Pennsylvania, 136 S. Ct. 1899 (2016)
- In re Murchison, 349 U.S. 133 (1955)
- Caperton v. A.T. Massey Coal Co., 556 U.S. 868 (2009)

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