

SUPREME COURT OF FLORIDA

Rivera v. State

995 So. 2d 191 (Fla. 2008) · No. SC05-1873 · Decided June 12, 2008

SUMMARY

The Supreme Court of Florida reviewed the summary denial of Michael Rivera’s successive motion for postconviction relief under Florida Rule of Criminal Procedure 3.850. The court affirmed the denial of Rivera’s judicial-bias claim but remanded for evidentiary hearings concerning alleged Giglio and Brady violations and newly discovered DNA evidence. The court also affirmed the denial of Rivera’s request to supplement his motion for rehearing, without prejudice to presenting relevant federal-proceeding evidence at the remand hearing.

CASE DETAILS

COURT	Supreme Court of Florida
WRITING FOR THE COURT	Lewis, C.J.; Anstead, J.; Pariente, J.; Quince, J.; Wells, J.; Cantero, J.; Bell, J.
JURISDICTION	Florida
DECIDED	June 12, 2008
DOCKET	SC05-1873
DISPOSITION	reversed_and_remanded
PROCEDURAL POSTURE	Rivera appealed the Florida trial court's summary denial of a successive motion for postconviction relief under Florida Rule of Criminal Procedure 3.850 following his first-degree murder conviction and death sentence.
STANDARD OF REVIEW	A postconviction movant is entitled to an evidentiary hearing unless the motion, files, and records conclusively demonstrate that the movant is entitled to no relief or the claim is legally insufficient. Allegations must be accepted as true to the extent they are not refuted by the record. The denial of a motion for rehearing and determinations concerning amendment of a postconviction motion are reviewed for abuse of discretion.
PRECEDENTIAL VALUE	Published Florida Supreme Court opinion; precedential.
PARTIES	Michael Rivera v. State of Florida

TOPICS

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successive petitions

actual innocence

prosecutorial misconduct

due process

PRACTICE AREAS

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evidence

QUESTIONS PRESENTED

1. Whether Rivera's judicial-bias claim was procedurally barred or legally insufficient.
2. Whether Rivera was entitled to an evidentiary hearing on his successive Giglio claim based on alleged false testimony and undisclosed benefits provided to informant Frank Zuccarello.
3. Whether Rivera was entitled to an evidentiary hearing on his successive Brady claim based on alleged suppression of favorable impeachment and exculpatory evidence concerning Zuccarello and law-enforcement conduct.
4. Whether recently obtained DNA testing constituted newly discovered evidence warranting an evidentiary hearing on whether it would probably produce an acquittal on retrial.
5. Whether the trial court denied due process by refusing to allow Rivera to supplement his rehearing motion with information from a federal evidentiary hearing involving Zuccarello.

HOLDINGS

1. A successive postconviction claim is not conclusively procedurally barred when the movant alleges that the supporting information was not known and could not have been known during prior postconviction proceedings, and the record does not refute those allegations. In that circumstance, the movant is entitled to an evidentiary hearing unless the record conclusively establishes entitlement to no relief.
2. Rivera's allegations concerning alleged false or misleading testimony by Zuccarello and the State's alleged suppression of favorable evidence were sufficient to require an evidentiary hearing because the record did not conclusively refute the alleged Giglio or Brady violations.
3. Rivera was entitled to an evidentiary hearing on whether DNA testing showing that hairs found in a van did not come from the victim and that hairs found with the victim did not come from Rivera constituted newly discovered evidence that would probably produce an acquittal on retrial.
4. The trial court did not abuse its discretion or deny due process by refusing to permit Rivera to supplement a motion for rehearing after postconviction relief had already been denied, although Rivera remained free to present relevant evidence from the federal proceedings at the evidentiary hearing on remand.

KEY QUOTATIONS

“Under rule 3.850, a postconviction defendant is entitled to an evidentiary hearing unless the motion and record conclusively show that the defendant is entitled to no relief.” (995 So. 2d at 197)

“Here, the record does not conclusively refute Rivera's extensive factual allegations that the State knowingly presented false or misleading testimony in violation of Giglio and withheld favorable evidence in violation of Brady.” (995 So. 2d at 197)

FACTUAL BACKGROUND

Rivera was convicted of murdering Staci Jazvac and sentenced to death. The prosecution relied in part on testimony from jailhouse informant Frank Zuccarello, who denied receiving a deal or promise for his testimony and portrayed himself as acting as a concerned citizen. Rivera later alleged that previously undisclosed documents showed Zuccarello had extensive contacts with law enforcement and had received or sought favorable treatment, while DNA testing showed that hairs found in a van and near the victim did not originate from the victim or Rivera, respectively.

PROCEDURAL HISTORY

Rivera was convicted of first-degree murder and sentenced to death, and the Supreme Court of Florida affirmed the conviction and sentence. After prior postconviction proceedings, Rivera filed successive postconviction motions asserting Giglio and Brady violations, newly discovered DNA evidence, judicial bias, and related ineffective-assistance and constitutional claims. The trial court summarily denied the claims without an evidentiary hearing. The Supreme Court of Florida affirmed the denial of the judicial-bias and rehearing-supplement claims but remanded for evidentiary hearings on the Giglio, Brady, and newly discovered DNA evidence claims.

DISPOSITION

reversed_and_remanded

REMAND INSTRUCTIONS

The trial court was directed to conduct evidentiary hearings on Rivera's Giglio and Brady claims concerning Zuccarello and on the newly discovered DNA evidence claim. Rivera could submit evidence from the federal proceedings involving Zuccarello to the extent that the evidence was shown to be relevant to the claims raised at the remand hearing.

CASES CITED

- Rivera v. State, 561 So. 2d 536, 537-538, 541 (Fla. 1990)
- Rivera v. State, 717 So. 2d 477, 479-487 (Fla. 1998)
- Rivera v. State, 859 So. 2d 495, 499 (Fla. 2003)
- Brady v. Maryland, 373 U.S. 83 (1963)
- Giglio v. United States, 405 U.S. 150 (1972)
- Strickland v. Washington, 466 U.S. 668 (1984)
- Zeigler v. State, 632 So. 2d 48, 51 (Fla. 1993)
- Peede v. State, Peede v. State, 748 So. 2d 253, 257 (Fla. 1999)

- Suarez v. Dugger, 527 So. 2d 190, 191-192 (Fla. 1988)
- Jones v. State, 709 So. 2d 512, 521 (Fla. 1998)
- Gaskin v. State, 737 So. 2d 509, 518 (Fla. 1999)
- McConn v. State, 708 So. 2d 308, 310 (Fla. 2d DCA 1998)
- Dries v. State, 899 So. 2d 489, 489 (Fla. 2d DCA 2005)
- Huff v. State, 762 So. 2d 476, 481 (Fla. 2000)
- Floyd v. State, 808 So. 2d 175, 182 (Fla. 2002)
- Nelson v. State, 875 So. 2d 579, 583 (Fla. 2004)
- Schwab v. State, 969 So. 2d 318, 325 (Fla. 2007)
- Strickler v. Greene, 527 U.S. 263, 281-282, 290 (1999)
- Way v. State, 760 So. 2d 903, 910, 912 (Fla. 2000)
- Young v. State, 739 So. 2d 553, 559 (Fla. 1999)
- Kyles v. Whitley, 514 U.S. 419, 435 (1995)
- Ponticelli v. State, 941 So. 2d 1073, 1085-1086 (Fla. 2006)
- Smith v. State, 931 So. 2d 790, 799 (Fla. 2006)
- Sochor v. State, 883 So. 2d 766, 787 (Fla. 2004)
- United States v. Bagley, 473 U.S. 667 (1985)
- Derrick v. State, 983 So. 2d 443 (Fla. 2008)
- Pietri v. State, 885 So. 2d 245, 252 (Fla. 2004)
- Fernandez v. State, 730 So. 2d 277, 283 (Fla. 1999)
- Williams v. State, 110 So. 2d 654 (Fla. 1959)
- Keen v. State, 775 So. 2d 263, 282 (Fla. 2000)