

SUPREME COURT OF ARKANSAS

Wooten v. State, 2010 Ark. 467

370 S.W.3d 475 (2010) · Decided December 2, 2010

SUMMARY

The Arkansas Supreme Court grants Wooten’s motion to recall the mandate and permits him to pursue a second Rule 37 postconviction proceeding. The court holds that the lack of verification of Wooten’s original Rule 37 petition constituted a defect or breakdown in the appellate process warranting extraordinary relief in this death-penalty case.

CASE DETAILS

COURT	Supreme Court of Arkansas
WRITING FOR THE COURT	Jim Gunter; Brown; Hannah; Wills
JURISDICTION	Arkansas
DECIDED	December 2, 2010
DISPOSITION	other
PROCEDURAL POSTURE	Wooten moved in the Arkansas Supreme Court to recall its mandate and permit him to pursue a second Rule 37 post-conviction proceeding after his prior post-conviction petition had not been verified by him.
STANDARD OF REVIEW	The court applied the stringent extraordinary-circumstances standard governing motions to recall a mandate and examined whether the asserted defect or breakdown in the post-conviction process warranted exceptional relief.
PRECEDENTIAL VALUE	Published Arkansas Supreme Court opinion
PARTIES	Wooten v. State

TOPICS

- state post-conviction relief
- appellate procedure
- habeas corpus
- due process
- criminal procedure

PRACTICE AREAS

- criminal procedure
- state post-conviction relief
- appellate procedure
- death-penalty post-conviction proceedings

QUESTIONS PRESENTED

1. Whether the Arkansas Supreme Court should recall its mandate and permit Wooten to pursue a second Rule 37 proceeding based on the lack of verification of his prior post-conviction petition.
2. Whether the absence of petitioner verification constituted a defect or breakdown in the appellate or post-conviction process sufficient to establish extraordinary circumstances for recalling the mandate.
3. Whether Wooten satisfied the criteria from *Robbins v. State*, *Lee v. State*, and related cases for recalling a mandate in a death-penalty case.

HOLDINGS

1. The court granted Wooten's motion to recall the mandate and allowed him to pursue a second Rule 37 post-conviction proceeding.
2. A post-conviction petition that does not satisfy the verification requirement ordinarily cannot be considered on its merits, although a death-penalty case may require an exceptional remedy when the failure reflects a breakdown in the post-conviction process.
3. The criteria for recalling a mandate in an extraordinary death-penalty case require more than the existence of unreviewed or allegedly meritorious claims; the asserted circumstances must reflect a qualifying defect or breakdown in the appellate or post-conviction process.

KEY QUOTATIONS

"We find that, in the present case, the lack of verification constitutes a defect or breakdown in the appellate process that requires a recall of the mandate." (370 S.W.3d at 482)

"Therefore, we grant the motion to recall the mandate." (370 S.W.3d at 482)

"The fact remains that there has yet to be filed a Rule 37 petition for post-conviction relief in the circuit court that has been verified by Wooten, which is in direct contravention to the dictates of Rule 37." (370 S.W.3d at 481)

FACTUAL BACKGROUND

Wooten was sentenced to death for capital murder and retained James Clawson to pursue Rule 37 post-conviction relief. Clawson filed a petition that Wooten did not verify, and the Arkansas courts ultimately affirmed the denial of relief. Clawson later surrendered his Arkansas law license, and Wooten's federal habeas claims were denied and found procedurally defaulted because the claims had not been presented to the state courts.

PROCEDURAL HISTORY

Wooten was convicted of capital murder, criminal attempt to commit capital murder, and aggravated assault and received sentences including death. The Arkansas Supreme Court affirmed his convictions; after a prior Rule 37 proceeding, it ultimately affirmed the denial of post-conviction relief. Wooten then sought federal habeas relief, which was denied by the federal district court and affirmed by the Eighth Circuit on procedural-default and exhaustion grounds. He subsequently renewed his motion in the Arkansas Supreme Court to recall the mandate, asserting that the unverified Rule 37 petition represented a breakdown in the post-conviction process.

DISPOSITION

other

REMAND INSTRUCTIONS

The mandate was recalled so that Wooten could pursue a second Rule 37 post-conviction proceeding based on a properly verified petition.

CASES CITED

- Wooten v. State, 325 Ark. 510, 931 S.W.2d 408 (1996)
- Wooten v. State, 338 Ark. 691, 1 S.W.3d 8 (1999)
- In re Clawson, 49 S.W.3d 99 (Ark. 2001) (per curiam)
- Wooten v. State, 347 Ark. 370, 64 S.W.3d 708 (2002)
- Wooten v. State, 351 Ark. 241, 91 S.W.3d 63 (2002)
- Wooten v. Norris, No. 5:03cv00370, 2006 WL 2686925 (E.D. Ark. Sept. 19, 2006)
- Wooten v. Norris, 578 F.3d 767 (8th Cir. 2009)
- Robbins v. State, 353 Ark. 556, 114 S.W.3d 217 (2003)
- Willett v. State, 322 Ark. 613, 911 S.W.2d 937 (1995)
- Lee v. State, 367 Ark. 84, 238 S.W.3d 52 (2006)
- Collins v. State, 365 Ark. 411, 231 S.W.3d 717 (2006)
- Engram v. State, 360 Ark. 140, 200 S.W.3d 367 (2004)
- Carey v. State, 268 Ark. 332, 596 S.W.2d 688 (1980)
- Boyle v. State, 362 Ark. 248, 208 S.W.3d 134 (2005) (per curiam)
- Shaw v. State, 363 Ark. 156, 211 S.W.3d 506 (2005) (per curiam)
- Howard v. State, 366 Ark. 453, 236 S.W.3d 508 (2006)
- Porter v. State, 339 Ark. 15, 2 S.W.3d 73 (1999)