

SUPREME COURT OF APPEALS OF WEST VIRGINIA

Robert Martin Barritt v. State of West Virginia

No. 21-0045 (W. Va. Aug. 27, 2021) · No. 21-0045 · Decided August 27, 2021

SUMMARY

The Supreme Court of Appeals of West Virginia affirmed the denial of Robert Martin Barritt’s fifth petition for a writ of habeas corpus. The court held that an evidentiary hearing was unnecessary because the petition lacked adequate factual support and failed to establish probable cause for relief, declining to reach the res judicata issue.

CASE DETAILS

COURT	Supreme Court of Appeals of West Virginia
WRITING FOR THE COURT	Chief Justice Evan H. Jenkins; Justice Elizabeth D. Walker; Justice Tim Armstead; Justice John A. Hutchison; Justice William R. Wooton
JURISDICTION	West Virginia
DECIDED	August 27, 2021
DOCKET	21-0045
DISPOSITION	affirmed
PROCEDURAL POSTURE	Petitioner appealed the Circuit Court of Ohio County's denial of his fifth petition for a writ of habeas corpus.
STANDARD OF REVIEW	The final order and ultimate disposition in a habeas corpus action are reviewed for abuse of discretion, underlying factual findings are reviewed for clear error, and questions of law are reviewed de novo. A habeas petition may be denied without a hearing when the petition and supporting materials show that the petitioner is entitled to no relief.
PRECEDENTIAL VALUE	Published memorandum decision
PARTIES	Robert Martin Barritt v. State of West Virginia

TOPICS

- state post-conviction relief
- successive petitions
- habeas corpus
- appellate procedure
- evidence

PRACTICE AREAS

- state post-conviction relief
- criminal procedure
- appellate procedure

QUESTIONS PRESENTED

1. Whether the circuit court properly denied Barritt's fifth habeas petition without an evidentiary hearing because the petition failed to establish probable cause or adequate factual support for any ground for relief.
2. Whether res judicata barred the fifth habeas petition despite the absence of an omnibus hearing in prior habeas proceedings.

HOLDINGS

1. A habeas petition may be summarily denied without an evidentiary hearing when the petition and supporting materials lack adequate factual support and do not show probable cause for any ground for relief. Barritt's fifth petition met that standard.
2. Habeas rulings are reviewed under a three-part standard: abuse of discretion for the final order and ultimate disposition, clear error for underlying factual findings, and de novo review for questions of law.
3. The court did not need to decide whether res judicata barred the fifth petition because the petition was properly denied on the independent ground that it lacked probable cause and adequate factual support.

KEY QUOTATIONS

“In reviewing challenges to the findings and conclusions of the circuit court in a habeas corpus action, we apply a three-prong standard of review. We review the final order and the ultimate disposition under an abuse of discretion standard; the underlying factual findings under a clearly erroneous standard; and questions of law are subject to a de novo review.” (at 2)

“This Court may, on appeal, affirm the judgment of the lower court when it appears that such judgment is correct on any legal ground disclosed by the record, regardless of the ground, reason or theory assigned by the lower court as the basis for its judgment.” (at 3)

FACTUAL BACKGROUND

Barritt was convicted of first-degree murder in Ohio County and sentenced to life imprisonment without the possibility of parole. He filed four prior habeas petitions and other post-conviction pleadings. In his fifth petition, he alleged, among other things, improper admission of a deceased physician's notes, juror disqualification, ineffective assistance, a possible witness asserting his innocence, an FBI file, and misconduct involving the oaths of special prosecutors. The petition did not provide adequate factual support for relief.

PROCEDURAL HISTORY

Barritt was convicted of first-degree murder and sentenced to life imprisonment without parole. After earlier unsuccessful direct and post-conviction proceedings, including four prior habeas petitions, he filed a fifth habeas petition in 2020. The circuit court denied the petition without an evidentiary hearing, finding no probable cause for any alleged ground and concluding that res judicata barred the petition. The Supreme Court of Appeals affirmed on the alternative ground that the petition could be summarily denied because it lacked adequate factual support.

DISPOSITION

affirmed

CASES CITED

- *Barritt v. Painter*, 215 W. Va. 120, 595 S.E.2d 62 (2004)
- *Watts v. Ballard*, 238 W. Va. 730, 798 S.E.2d 856 (2017)
- *Mathena v. Haines*, 219 W. Va. 417, 633 S.E.2d 771 (2006)
- *Perdue v. Coiner*, 156 W. Va. 467, 194 S.E.2d 657 (1973)
- *White v. Haines*, 215 W. Va. 698, 601 S.E.2d 18 (2004)
- *Anstey v. Ballard*, 237 W. Va. 411, 787 S.E.2d 864 (2016)
- *Barnett v. Norfolk*, 149 W. Va. 246, 140 S.E.2d 466 (1965)
- *Losh v. McKenzie*, 166 W. Va. 762, 277 S.E.2d 606 (1981)

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