

SUPREME COURT OF APPEALS OF WEST VIRGINIA

State ex rel. Joey K. Jeffery v. Ralph Terry, Superintendent

No. 17-0216 · No. No. 17-0216 · Decided October 15, 2018

SUMMARY

The Supreme Court of Appeals of West Virginia affirmed the denial of Joey K. Jeffery’s amended petition for a writ of habeas corpus. The court rejected claims involving ineffective assistance of counsel, juror communications, the petitioner’s absence from proceedings, the failure to initially swear a witness, evidentiary rulings, and cumulative error. The court held that the plain error doctrine was not triggered and adopted the circuit court’s findings and conclusions.

CASE DETAILS

COURT	Supreme Court of Appeals of West Virginia
WRITING FOR THE COURT	Chief Justice Margaret L. Workman; Justice Elizabeth D. Walker; Justice Paul T. Farrell sitting by temporary assignment; Justice Tim Armstead; Justice Evan H. Jenkins
JURISDICTION	West Virginia
DECIDED	October 15, 2018
DOCKET	No. 17-0216
DISPOSITION	affirmed
PROCEDURAL POSTURE	Petitioner appealed the Circuit Court of Kanawha County's denial of his amended petition for a writ of habeas corpus challenging his criminal conviction and sentence.
STANDARD OF REVIEW	The final order and ultimate disposition in a habeas corpus action are reviewed for abuse of discretion, underlying factual findings for clear error, and questions of law de novo.
PRECEDENTIAL VALUE	Nonprecedential memorandum decision
PARTIES	Joey K. Jeffery v. Ralph Terry, Superintendent, Mt. Olive Correctional Complex

TOPICS

- state post-conviction relief
- habeas corpus
- ineffective assistance
- appellate procedure
- criminal procedure

PRACTICE AREAS

post-conviction relief

criminal procedure

appellate procedure

ineffective assistance

evidence

QUESTIONS PRESENTED

1. Whether Jeffery received ineffective assistance of trial counsel.
2. Whether unobjected-to communications between the trial court and jurors deprived Jeffery of a fair trial.
3. Whether Jeffery was absent during critical stages of the proceedings in violation of due process.
4. Whether the trial court committed plain error by allowing a witness to testify before being sworn.
5. Whether the trial court improperly admitted certain evidence.
6. Whether cumulative error required habeas relief.
7. Whether the alleged unpreserved errors satisfied the plain-error doctrine.

HOLDINGS

1. The plain-error doctrine was not triggered because the alleged errors did not affect the fairness, integrity, or public reputation of the judicial proceedings and did not result in a miscarriage of justice.
2. The circuit court did not clearly err or abuse its discretion in denying Jeffery's amended habeas petition, and its findings and conclusions were adopted and incorporated.
3. In a habeas corpus action, the final order and ultimate disposition are reviewed for abuse of discretion, underlying factual findings for clear error, and legal questions de novo.

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.” (at 3)

“To trigger the application of the plain error doctrine, there must be “(1) an error; (2) that is plain; (3) that affects substantial rights; and (4) seriously affects the fairness, integrity, or public reputation of the judicial proceedings.”” (at 3)

“Because we find no clear error or abuse of discretion in the circuit court’s order or record before us, we hereby adopt and incorporate the circuit court’s findings and conclusions as they relate to petitioner’s assignments of error raised on appeal” (at 4)

FACTUAL BACKGROUND

Jeffery was convicted of kidnapping, second-degree robbery, malicious wounding, and assault arising from the abduction and beating of Leanne Quinn. At trial, the court excused one juror after an inquiry concerning familiarity with a witness and addressed another juror's disclosed familiarity with the victim; the defense did not object. A prosecution witness also testified before being sworn, but was immediately sworn and confirmed that her prior testimony was truthful. Jeffery later alleged ineffective assistance, due process violations, evidentiary errors, and cumulative error in his habeas petition.

PROCEDURAL HISTORY

Jeffery was convicted in February 2014 and sentenced on April 9, 2014, to four consecutive terms of imprisonment. This Court affirmed his convictions on direct appeal in *State v. Jeffery*, No. 14-0888, 2015 WL 1740281. Jeffery then filed an initial habeas petition, later amended it, and received an omnibus hearing. The circuit court denied habeas relief, and the Supreme Court of Appeals affirmed.

DISPOSITION

affirmed

CASES CITED

- *State v. Jeffery*, No. 14-0888, 2015 WL 1740281 (W. Va. Apr. 13, 2015)
- *State v. Miller*, 194 W. Va. 3, 459 S.E.2d 114 (1995)
- *Mathena v. Haines*, 219 W. Va. 417, 633 S.E.2d 771 (2006)
- *State ex rel. Franklin v. McBride*, 226 W. Va. 375, 701 S.E.2d 97 (2010)
- *United States v. Young*, 470 U.S. 1, 15, 105 S. Ct. 1038, 1046 (1985)