

DISTRICT OF COLUMBIA COURT OF APPEALS

Bouknight v. United States

867 A.2d 245 (D.C. 2005) · No. Nos. 03-CO-105, 03-CO-467 · Decided February 3, 2005

SUMMARY

The District of Columbia Court of Appeals affirmed the denial of Recco Bouknight’s collateral challenge to his murder convictions under D.C. Code § 23-110 and the Innocence Protection Act. The court held that a witness’s proposed testimony did not qualify as new evidence because Bouknight failed to exercise reasonable diligence to secure it and deliberately withheld efforts to present it as part of his trial strategy. The court also held that no additional Innocence Protection Act hearing was required under the circumstances.

CASE DETAILS

COURT	District of Columbia Court of Appeals
WRITING FOR THE COURT	Belson, Senior Judge; Terry, Associate Judge; Glickman, Associate Judge
JURISDICTION	District of Columbia
DECIDED	February 3, 2005
DOCKET	Nos. 03-CO-105, 03-CO-467
DISPOSITION	affirmed
PROCEDURAL POSTURE	Bouknight appealed the denial of a collateral attack under D.C. Code § 23-110 alleging ineffective assistance of trial counsel and the denial of relief under the District of Columbia Innocence Protection Act based on alleged new evidence of actual innocence.
STANDARD OF REVIEW	The court reviewed ineffective-assistance rulings with deference; factual findings supported by the record would not be reversed, and credibility determinations received substantial deference. The court reviewed the denial of an additional Innocence Protection Act hearing for abuse of discretion and applied the statute's requirements to the proffered evidence.
PRECEDENTIAL VALUE	published and precedential
PARTIES	Recco A. Bouknight v. United States

TOPICS

actual innocence

post-conviction relief

ineffective assistance

statutory interpretation

appellate procedure

PRACTICE AREAS

criminal law

post-conviction relief

actual innocence

ineffective assistance of counsel

criminal procedure

QUESTIONS PRESENTED

1. Whether the trial court properly denied Bouknight's D.C. Code § 23-110 claim alleging ineffective assistance of counsel.
2. Whether Jones's statement qualified as "new evidence" under the Innocence Protection Act when Bouknight knew of Jones's presence and made no effort to subpoena him or secure immunity.
3. Whether Bouknight deliberately withheld the alleged new evidence for strategic advantage, thereby failing an express prerequisite for Innocence Protection Act relief.
4. Whether the trial court was required to hold a separate hearing on the Innocence Protection Act motion.
5. Whether the trial court could treat Bouknight's credibility as an independent ground for denying Innocence Protection Act relief.

HOLDINGS

1. The trial court properly denied Bouknight's ineffective-assistance claim because the record supported its finding that Bouknight had not established deficient performance by counsel.
2. A movant cannot obtain Innocence Protection Act relief when the alleged new evidence was deliberately withheld at trial for strategic advantage.
3. Evidence known to the defendant at trial does not qualify as "new evidence" under the IPA unless the defendant exercised reasonable diligence to obtain it, including making available efforts to subpoena the witness or secure immunity where appropriate.
4. A separate IPA hearing was not required where the trial court had already conducted an evidentiary hearing addressing essentially the same allegations and proffers underlying the IPA motion.
5. The trial court may consider the movant's credibility in evaluating the statutory IPA factors, but credibility is not a separate, independent ground for denying relief apart from those statutory factors.

KEY QUOTATIONS

"We agree with the trial judge that Rule 33 principles regarding diligence apply to motions brought under the IPA." (at 255)

"In sum, we sustain the trial judge's ruling that Bouknight failed to exercise reasonable diligence with respect to obtaining Jones' testimony at trial." (at 256)

"For that reason, it is unnecessary and inappropriate to depart from that construct by recognizing credibility as a separate basis for a ruling, independent of the considerations set forth by the statute." (at 258)

FACTUAL BACKGROUND

Bouknight was convicted of murdering Lloyd Thomas and related offenses after eyewitness testimony and a written confession implicated him as the shooter. At trial, Bouknight denied being present and presented an alibi, but during his later collateral proceeding he offered a third account claiming that Steven Davis was the shooter and that trial counsel had prevented him from presenting that account. Bouknight relied principally on a statement from Jamal Jones, a witness who had previously invoked the Fifth Amendment, but Bouknight had not subpoenaed Jones or sought immunity for him at trial.

PROCEDURAL HISTORY

The court had affirmed Bouknight's convictions on direct appeal in 1994. In 1999, Bouknight moved under D.C. Code § 23-110 to vacate his convictions, alleging ineffective assistance of counsel; after an evidentiary hearing, the trial court denied relief. During that proceeding, he also moved under the Innocence Protection Act for a new trial or vacatur based on statements supporting a different account of the murder. The trial court denied the IPA motion without a separate hearing, and the Court of Appeals affirmed both orders.

DISPOSITION

affirmed

CASES CITED

- Bouknight v. United States, 641 A.2d 857 (D.C. 1994)
- Strickland v. Washington, 466 U.S. 668 (1984)
- Bowman v. United States, 652 A.2d 64, 73 (D.C. 1994)
- Curry v. United States, 498 A.2d 534, 540 (D.C. 1985)
- Alston v. United States, 838 A.2d 320, 324 (D.C. 2003)
- Byrd v. United States, 614 A.2d 25, 30 (D.C. 1992)
- United States v. Porter, 618 A.2d 629 (D.C. 1992)
- Southall v. United States, 716 A.2d 183, 188 (D.C. 1998)
- Payne v. United States, 697 A.2d 1229, 1234 (D.C. 1997)
- Diamond v. Davis, 680 A.2d 364, 391 (D.C. 1996)
- Wright v. United States, 387 A.2d 582, 587 (D.C. 1978)
- Haley v. United States, 799 A.2d 1201, 1211 (D.C. 2002)
- Freeman v. United States, 391 A.2d 239, 242 (D.C. 1978)
- United States v. Locke, No. 96 CR 290-12, 1999 U.S. Dist. LEXIS 11593, at *10 (N.D. Ill. July 20, 1999)
- Sousa v. United States, 725 A.2d 501, 506 (D.C. 1999)
- United States v. Sims, No. 01-2020, 2003 U.S. App. LEXIS 13054, at *8-9 (6th Cir. June 24, 2003)
- United States v. Theodosopoulos, 48 F.3d 1438, 1449 (7th Cir. 1995)
- Ida v. United States, 207 F. Supp. 2d 171, 180-81 (S.D.N.Y. 2002)
- United States v. Matos, 781 F. Supp. 273, 279 (S.D.N.Y. 1991)
- Jaggars v. United States, 482 A.2d 786, 793 (D.C. 1984)

- *Carter v. United States*, 684 A.2d 331, 343 (D.C. 1996) (en banc)
- *Brady v. Maryland*, 373 U.S. 83 (1963)

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