

SUPREME COURT OF SOUTH DAKOTA

State of South Dakota v. Raymond M. Martinez

Martinez, 2016 S.D. 49 (S.D. 2016) · No. #27559 · Decided July 6, 2016

SUMMARY

The South Dakota Supreme Court considered Raymond M. Martinez’s claims of ineffective assistance of counsel, denial of his request for substitute appointed counsel, and cruel and unusual punishment. The court declined to address ineffective assistance on direct appeal because the record was insufficient for review, but held that the circuit court erred by failing to address Martinez’s motion for new counsel. The court reversed Martinez’s sentence and remanded for appointment of new counsel and a new sentencing hearing.

CASE DETAILS

COURT	Supreme Court of South Dakota
WRITING FOR THE COURT	Wilbur, Justice; Gilbertson, Chief Justice; Zinter, Justice; Severson, Justice; Kern, Justice
JURISDICTION	South Dakota
DECIDED	July 6, 2016
DOCKET	#27559
DISPOSITION	reversed_and_remanded
PROCEDURAL POSTURE	Martinez appealed directly from his criminal judgment and sentence, challenging ineffective assistance of counsel, the circuit court's failure to address his request for substitute counsel, and the constitutionality of his sentence.
STANDARD OF REVIEW	A circuit court's decision on a request for substitution of counsel is reviewed for abuse of discretion. The court also applied the general rule that ineffective-assistance claims are ordinarily not considered on direct appeal when the record is insufficiently developed.
PRECEDENTIAL VALUE	Published opinion; precedential
PARTIES	Raymond M. Martinez v. State of South Dakota

TOPICS

[right to counsel](#)[sentencing](#)[ineffective assistance](#)[criminal procedure](#)[state post-conviction relief](#)

PRACTICE AREAS

Criminal law

Criminal procedure

Appellate procedure

Post-conviction relief

QUESTIONS PRESENTED

1. Whether the Supreme Court should consider Martinez's ineffective-assistance-of-counsel claim on direct appeal despite an incomplete record.
2. Whether the circuit court erred by failing to address Martinez's request for substitute appointed counsel and by proceeding with sentencing without appointing new counsel.
3. Whether Martinez's sentence was grossly disproportionate and violated the constitutional prohibition against cruel and unusual punishment.

HOLDINGS

1. The court declined to address the ineffective-assistance claim on direct appeal because the record was insufficiently developed to establish the truth of Martinez's allegations or permit counsel to explain her actions and strategies.
2. The circuit court erred by failing to address Martinez's motion for a change of appointed counsel. The undisputed facts established good cause for substitution, and the court was required to appoint new counsel before conducting sentencing.
3. The court did not decide the cruel-and-unusual-punishment claim because reversal and remand for appointment of new counsel and resentencing made resolution of that issue unnecessary.

KEY QUOTATIONS

“When a defendant asserts that his assigned lawyer is not adequate or diligent, . . . the judge should hear his claim and, if there is a factual dispute, take testimony and state his findings and conclusion.” (¶ 15)

“There is no question here that Martinez was left to fend for himself at sentencing.” (¶ 18)

“The circuit court erred when it did not address Martinez’s motion for a change of counsel.” (¶ 19)

FACTUAL BACKGROUND

Martinez was charged with multiple felony offenses arising from an alleged break-in, sexual assault, kidnapping, and domestic-violence assault involving his estranged girlfriend. After approximately 390 days in jail, he pleaded guilty to first-degree burglary under an agreement dismissing the other charges and the habitual-offender allegation. Before sentencing, Martinez complained in writing about appointed counsel and requested new counsel, while counsel reported that she was physically and medically unable to proceed and had not completed sentencing preparation. The circuit court denied a further continuance, denied counsel's request to withdraw, and sentenced Martinez without addressing his request for substitute counsel.

PROCEDURAL HISTORY

A Butte County grand jury indicted Martinez on five felony charges and a part II habitual-offender information. He later pleaded guilty to first-degree burglary in exchange for dismissal of the remaining charges and habitual-

offender allegation. After the circuit court denied defense counsel's request for a continuance and request to withdraw, it sentenced Martinez to twenty years in prison with four years suspended. The Supreme Court of South Dakota declined to decide the ineffective-assistance claim on direct appeal, reversed the sentence because the circuit court failed to address Martinez's request for new counsel, and remanded for appointment of new counsel and a new sentencing hearing.

DISPOSITION

reversed_and_remanded

REMAND INSTRUCTIONS

The circuit court must appoint new counsel for Martinez and conduct a new sentencing hearing.

CASES CITED

- State v. Thomas, 2011 S.D. 15, 796 N.W.2d 706
- State v. Arabie, 2003 S.D. 57, 663 N.W.2d 250
- State v. Dillon, 2001 S.D. 97, 632 N.W.2d 37
- State v. Schmidt, 2012 S.D. 77, 825 N.W.2d 889
- State v. Reed, 2010 S.D. 105, 793 N.W.2d 63
- State v. Irvine, 1996 S.D. 43, 547 N.W.2d 177
- State v. Fender, 484 N.W.2d 307 (S.D. 1992)
- State v. Talarico, 2003 S.D. 41, 661 N.W.2d 11
- State v. Beckley, 2007 S.D. 122, 742 N.W.2d 841
- In re J.G.R., 2004 S.D. 131, 691 N.W.2d 586
- State v. Phelps, 297 N.W.2d 769 (N.D. 1980)

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