

SUPREME COURT OF ARKANSAS

Golden v. State

427 S.W.3d 11 (Ark. 2013) · No. CR 2006-2508; CR 2006-2512 · Decided April 11, 2013

SUMMARY

The Arkansas Supreme Court affirmed the denial of Jeffrey Golden’s petition for postconviction relief under Arkansas Rule of Criminal Procedure 37. Golden alleged that trial counsel was ineffective for failing to authenticate a movie-theater receipt supporting his alibi for one of the robberies. The court held that Golden failed to demonstrate a reasonable probability that the trial outcome would have been different, and therefore failed to establish prejudice under Strickland v. Washington.

CASE DETAILS

COURT	Supreme Court of Arkansas
WRITING FOR THE COURT	Donald L. Corbin; Jim Hannah; Robert J. Gladwin; Karen R. Baker; Paul E. Danielson; Robin F. Wynne; Cliff Hoofman Jr.
JURISDICTION	Arkansas
DECIDED	April 11, 2013
DOCKET	CR 2006-2508; CR 2006-2512
DISPOSITION	affirmed
PROCEDURAL POSTURE	Jeffrey Golden appealed the Faulkner County Circuit Court's denial of his petition for postconviction relief under Arkansas Rule of Criminal Procedure 37. He argued that trial counsel was ineffective for failing to subpoena witnesses who could authenticate a movie-theater receipt supporting his alibi, and that the circuit court clearly erred in finding no Strickland prejudice.
STANDARD OF REVIEW	The Supreme Court of Arkansas does not reverse the denial of postconviction relief unless the circuit court's findings are clearly erroneous. Ineffective-assistance claims are evaluated under the two-prong Strickland standard, considering the totality of the evidence.
PRECEDENTIAL VALUE	Published Arkansas Supreme Court opinion
PARTIES	Jeffrey Golden v. State of Arkansas

TOPICS

state post-conviction relief

ineffective assistance

post-conviction relief

standard of review

appellate procedure

PRACTICE AREAS

criminal postconviction

ineffective assistance of counsel

criminal procedure

appellate procedure

QUESTIONS PRESENTED

1. Whether the circuit court clearly erred in finding that Golden failed to establish prejudice under Strickland based on trial counsel's failure to subpoena witnesses to authenticate and corroborate the movie-theater receipt.
2. Whether the Supreme Court of Arkansas should set aside the circuit court's separate postconviction-relief order entered under docket number CR 2006-2512.

HOLDINGS

1. The circuit court did not clearly err in finding that Golden failed to demonstrate a reasonable probability that the jury would have reached a different verdict if counsel had subpoenaed the theater manager and bank vice-president to authenticate and corroborate the receipt.
2. The court denied counsel's request to set aside the circuit court's order denying postconviction relief in case number CR 2006-2512.

KEY QUOTATIONS

"We cannot say the circuit court's findings are clearly erroneous, and we affirm the order denying post-conviction relief."

"Unless a petitioner makes both Strickland showings, it cannot be said that the conviction resulted from a breakdown in the adversarial process that renders the result unreliable."

FACTUAL BACKGROUND

Golden was convicted after evidence connected him to robberies at a Subway restaurant and a Playworld Family Fun Center, as well as a separate robbery admitted under Arkansas Rule of Evidence 404(b). He testified that he was at a movie theater with his children when the Subway robbery occurred and sought to introduce a receipt reflecting movie-ticket and concession purchases. The receipt was excluded because it was not authenticated, and in the Rule 37 proceeding Golden presented testimony from a theater manager and a bank records custodian who could have authenticated or corroborated the transactions. The bank custodian acknowledged that the records could not establish who possessed or used the debit card.

PROCEDURAL HISTORY

Golden was convicted by a jury of two counts of aggravated robbery, possession of firearms by a felon, and two counts of misdemeanor theft arising from two Faulkner County robberies. The Arkansas Court of Appeals affirmed on direct appeal, rejecting his evidentiary and new-trial claims. Golden then filed a Rule 37 petition

alleging ineffective assistance based on counsel's failure to authenticate a movie-theater receipt; after an evidentiary hearing, the circuit court denied relief. The Supreme Court of Arkansas affirmed the denial and declined to set aside a separate order concerning docket number CR 2006-2512.

DISPOSITION

affirmed

CASES CITED

- Golden v. State, 2009 Ark. App. 632
- Strickland v. Washington, 466 U.S. 668 (1984)
- Sartin v. State, 2012 Ark. 155, 400 S.W.3d 694
- State v. Harrison, 2012 Ark. 198, 404 S.W.3d 830
- Anderson v. State, 2011 Ark. 488, 385 S.W.3d 783
- Perry v. New Hampshire, 565 U.S. 228, 132 S. Ct. 716, 181 L. Ed. 2d 694 (2012)

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