

SUPREME COURT OF FLORIDA

Geralds v. State

111 So. 3d 778 (Fla. 2013) · Decided September 16, 2010

SUMMARY

The Florida Supreme Court reviews Mark Allen Gerald's appeal from the denial of his Florida Rule of Criminal Procedure 3.851 postconviction motion and his petition for a writ of habeas corpus. Gerald raised claims involving alleged Brady and Giglio violations, ineffective assistance of counsel, newly discovered evidence, procedural rulings, access to records, and lethal injection. The court affirmed the denial of postconviction relief and denied the habeas petition.

CASE DETAILS

COURT	Supreme Court of Florida
WRITING FOR THE COURT	Per Curiam; Canady, C.J.; Pariente, J.; Lewis, J.; Quince, J.; Polston, J.; Labarga, J.
JURISDICTION	Florida
DECIDED	September 16, 2010
DISPOSITION	affirmed
PROCEDURAL POSTURE	Geralds appealed the circuit court's denial of his amended and supplemental motion for postconviction relief under Florida Rule of Criminal Procedure 3.851 and separately petitioned the Supreme Court of Florida for a writ of habeas corpus alleging ineffective assistance of appellate counsel and error concerning resentencing.
STANDARD OF REVIEW	Brady determinations are reviewed independently, with deference to supported factual findings and de novo review of legal conclusions and the cumulative effect of suppressed evidence. Giglio and ineffective-assistance claims involving mixed questions of law and fact receive deference to competent, substantial factual findings and de novo review of legal conclusions. Denials of motions to depose and public-records requests are reviewed for abuse of discretion. Summary denial of postconviction claims is proper when the motion, files, and records conclusively show no entitlement to relief or the claim is legally insufficient.
PRECEDENTIAL VALUE	Published and precedential Florida Supreme Court opinion

PARTIES

Mark Allen Gerald v. State of Florida

TOPICS

state post-conviction relief

habeas corpus

ineffective assistance

sentencing

cruel and unusual punishment

PRACTICE AREAS

capital postconviction litigation

criminal procedure

habeas corpus

ineffective assistance of counsel

death penalty sentencing

QUESTIONS PRESENTED

1. Whether the State violated *Brady v. Maryland* by suppressing favorable evidence.
2. Whether the State violated *Giglio v. United States* by presenting or failing to correct false or misleading testimony.
3. Whether trial counsel was ineffective during the guilt and penalty phases under *Strickland v. Washington*.
4. Whether newly discovered evidence established a conflict of interest or otherwise warranted postconviction relief.
5. Whether the circuit court properly summarily denied certain postconviction claims.
6. Whether the circuit court abused its discretion in denying a motion to depose a suspect and in ruling on public-records requests.
7. Whether Florida's lethal-injection procedure violated the prohibition against cruel and unusual punishment.
8. Whether appellate counsel was ineffective for failing to raise confrontation, prosecutorial-comment, mitigation, evidentiary, or jury-instruction claims.
9. Whether the Supreme Court of Florida was required to remand for another resentencing after striking the CCP aggravator.

HOLDINGS

1. Gerald failed to establish that the State suppressed favorable and material evidence or that any alleged suppression prejudiced him; therefore, the circuit court properly denied the *Brady* claims.
2. Gerald failed to prove that the State knowingly presented false testimony or that the challenged testimony was material; the circuit court therefore properly denied the *Giglio* claims.
3. Gerald failed to establish either deficient performance or prejudice under *Strickland* for his guilt-phase and penalty-phase claims.
4. The circuit court properly summarily denied claims that were conclusory, legally insufficient, or unsupported by allegations showing suppression, deficient performance, or prejudice.

5. The circuit court did not abuse its discretion in denying requests for state-attorney work product and requests that were unduly broad, vague, or insufficiently specific.
6. Gerald's failed to show that appellate counsel's omissions were deficient or prejudicial; counsel was not ineffective for failing to raise meritless, unpreserved, procedurally barred, or harmless issues.
7. The Supreme Court of Florida was not required to remand for another resentencing because it had determined on direct appeal that the invalid CCP aggravator was harmless beyond a reasonable doubt.

KEY QUOTATIONS

"To establish a Brady violation, the defendant has the burden to show (1) that favorable evidence — either exculpatory or impeaching, (2) was willfully or inadvertently suppressed by the State, and (3) because the evidence was material, the defendant was prejudiced." (at 787)

"This Court determined that the application of the CCP aggravating circumstance was harmless error in light of the record, which established "two substantial aggravators ... and mitigation that the trial judge gave 'little weight.' " (at 810)

FACTUAL BACKGROUND

Gerald's was convicted of murdering Tressa Lynn Pettibone and received a death sentence after a second penalty phase. The State's evidence included a herringbone necklace pawned by Gerald's that bore a blood stain compatible with the victim's blood type, a plastic tie linking his vehicle to the crime scene, and other circumstantial evidence. In postconviction proceedings, Gerald's alleged suppressed evidence, false testimony, ineffective assistance, newly discovered evidence, inadequate public-records access, and constitutional defects in Florida's lethal-injection procedure.

PROCEDURAL HISTORY

Gerald's was convicted of first-degree murder and sentenced to death in 1990. The Supreme Court of Florida affirmed the conviction but remanded for resentencing and a new penalty phase; it later affirmed the resulting death sentence while finding application of the CCP aggravator erroneous but harmless. After extensive postconviction proceedings, including evidentiary hearings, the circuit court denied relief, and Gerald's appealed that denial and filed a habeas petition in the Supreme Court of Florida.

DISPOSITION

affirmed

CASES CITED

- Gerald's v. State, 601 So. 2d 1157 (Fla. 1992)
- Gerald's v. State, 674 So. 2d 96 (Fla. 1996)
- Brady v. Maryland, 373 U.S. 83 (1963)
- Giglio v. United States, 405 U.S. 150 (1972)
- Strickler v. Greene, 527 U.S. 263 (1999)

- Strickland v. Washington, 466 U.S. 668 (1984)
- Occhicone v. State, 768 So. 2d 1037 (Fla. 2000)
- Freeman v. State, 761 So. 2d 1055 (Fla. 2000)
- Lightbourne v. McCollum, 969 So. 2d 326 (Fla. 2007)
- Schwab v. State, 969 So. 2d 318 (Fla. 2007)
- Baze v. Rees, 553 U.S. 35 (2008)
- Ohio v. Roberts, 448 U.S. 56 (1980)
- Crawford v. Washington, 541 U.S. 36 (2004)
- Rutherford v. Moore, 774 So. 2d 637 (Fla. 2000)
- Sochor v. Florida, 504 U.S. 527 (1992)