

SUPREME COURT OF FLORIDA

Moore v. State

820 So. 2d 199 (Fla. 2002) · No. Nos. SC00-2483, SC01-708 · Decided March 7, 2002

SUMMARY

The Supreme Court of Florida affirmed the denial of Thomas James Moore’s motion for postconviction relief under Florida Rule of Criminal Procedure 3.850 and denied his petition for a writ of habeas corpus. The court rejected or found procedurally barred Moore’s claims concerning public-records requests, amendments to his postconviction motion, judicial disqualification, ineffective assistance of trial counsel, and ineffective assistance of appellate counsel. A justice concurred in part and dissented in part regarding the public-records issue.

CASE DETAILS

COURT	Supreme Court of Florida
WRITING FOR THE COURT	Per Curiam; Wells, C.J.; Shaw, J.; Harding, J.; Pariente, J.; Lewis, J.; Quince, J.; Anstead, J.
JURISDICTION	Florida
DECIDED	March 7, 2002
DOCKET	Nos. SC00-2483, SC01-708
DISPOSITION	affirmed
PROCEDURAL POSTURE	Moore appealed the circuit court's denial of his Florida Rule of Criminal Procedure 3.850 postconviction motion and separately petitioned the Supreme Court of Florida for habeas corpus relief based on alleged ineffective assistance of appellate counsel.
STANDARD OF REVIEW	Abuse of discretion for the trial court's determination that a defendant's right to public records was not denied and for refusal to allow amendments to a Rule 3.850 motion; legal sufficiency for a motion to disqualify; Strickland's deficient-performance and prejudice standard for ineffective-assistance claims.
PRECEDENTIAL VALUE	published precedential opinion
PARTIES	Thomas James Moore v. State of Florida

TOPICS

state post-conviction relief

habeas corpus

post-conviction relief

ineffective assistance

appellate procedure

PRACTICE AREAS

capital postconviction relief

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QUESTIONS PRESENTED

1. Whether the trial court abused its discretion in denying Moore's requests for additional public records.
2. Whether the trial court properly refused to consider Moore's third amended Rule 3.850 motion.
3. Whether Moore's motion to disqualify the trial judge was legally sufficient.
4. Whether trial counsel was ineffective for failing to object to the prosecutor's allegedly improper closing-argument comments.
5. Whether Moore was entitled to habeas relief based on alleged ineffective assistance of appellate counsel.

HOLDINGS

1. The trial court did not abuse its discretion in denying Moore's requests for additional public records because the record supported the conclusion that relevant records had been provided, Moore failed to show that additional information remained undisclosed, and he failed to comply with Rule 3.852(i).
2. The trial court did not abuse its discretion by striking Moore's third amended Rule 3.850 motion.
3. Moore's motion to disqualify the trial judge was legally insufficient because the alleged circumstances did not establish a well-grounded fear that he would not receive a fair hearing.
4. Moore failed to establish ineffective assistance of counsel arising from counsel's failure to object to the prosecutor's isolated references to Moore as the "devil."
5. Moore was not entitled to habeas relief because his appellate-counsel claims were procedurally barred or meritless.

KEY QUOTATIONS

"rule 3.852 "is not intended to be a procedure authorizing a fishing expedition for records unrelated to a colorable claim for postconviction relief." (820 So. 2d at 204)

"Unless a defendant makes both showings, it cannot be said that the conviction or death sentence resulted from a breakdown in the adversary process that renders the result unreliable." (820 So. 2d at 208)

FACTUAL BACKGROUND

In 1993, Moore was convicted of first-degree murder, attempted armed robbery, conspiracy to commit armed robbery, armed burglary, and arson arising from the robbery and killing of John Edward Parrish. The jury recommended death by a vote of nine to three, and the trial court imposed a death sentence after finding three aggravating circumstances and giving limited weight to mitigation. During postconviction proceedings, Moore sought additional investigative and public records, attempted to amend his Rule 3.850 motion, challenged the

trial judge's impartiality, and alleged ineffective assistance based on the prosecutor's characterization of him as the "devil."

PROCEDURAL HISTORY

Moore was convicted and sentenced to death in 1993, and the Supreme Court of Florida affirmed his convictions and sentence in 1997. After the United States Supreme Court denied certiorari, Moore filed a second amended Rule 3.850 motion. The circuit court held a Huff hearing, denied all claims without an evidentiary hearing, denied rehearing, and struck Moore's third amended motion. The Supreme Court of Florida affirmed the denial of postconviction relief and denied the habeas petition.

DISPOSITION

affirmed

CASES CITED

- Moore v. State, 701 So. 2d 545, 547, 551-552 (Fla. 1997)
- Moore v. Florida, 523 U.S. 1083, 118 S. Ct. 1536, 140 L. Ed. 2d 685 (1998)
- Reed v. State, 640 So. 2d 1094, 1098 (Fla. 1994)
- Mills v. State, 786 So. 2d 547, 552 (Fla. 2001)
- Glock v. Moore, 776 So. 2d 243, 253-254 (Fla. 2000)
- Sims v. State, 753 So. 2d 66, 70 (Fla. 2000)
- Ventura v. State, 673 So. 2d 479, 481 (Fla. 1996)
- Muehleman v. Dugger, 623 So. 2d 480, 481 (Fla. 1993)
- Pope v. State, 702 So. 2d 221, 223 (Fla. 1997)
- Johnson v. State, 769 So. 2d 990, 994 (Fla. 2000)
- Correll v. State, 698 So. 2d 522, 524-525 (Fla. 1997)
- Quince v. State, 592 So. 2d 669, 670 (Fla. 1992)
- Livingston v. State, 441 So. 2d 1083, 1087 (Fla. 1983)
- Arbelaez v. State, 775 So. 2d 909 (Fla. 2000)
- 5-H Corp. v. Padovano, 708 So. 2d 244, 248 (Fla. 1997)
- Fischer v. Knuck, 497 So. 2d 240, 242 (Fla. 1986)
- Barwick v. State, 660 So. 2d 685, 692 (Fla. 1995)
- Ayo v. State, 708 So. 2d 692 (Fla. 5th DCA 1998)
- Strickland v. Washington, 466 U.S. 668, 687, 694-695 (1984)
- Cherry v. State, 659 So. 2d 1069, 1072 (Fla. 1995)
- Valle v. State, 705 So. 2d 1331, 1333 (Fla. 1997)
- Brooks v. State, 762 So. 2d 879, 905 (Fla. 2000)
- Urbin v. State, 714 So. 2d 411, 418-422 (Fla. 1998)

- Chandler v. State, 702 So. 2d 186, 191 n.5 (Fla. 1997)
- Carroll v. State, 815 So. 2d 601 (Fla. 2002)
- Davis v. State, 736 So. 2d 1156, 1158-1159 (Fla. 1999)
- Ragsdale v. State, 720 So. 2d 203, 207 (Fla. 1998)
- Kennedy v. State, 547 So. 2d 912, 913 (Fla. 1989)
- Hardwick v. Dugger, 648 So. 2d 100, 103, 105 (Fla. 1994)
- Harvey v. Dugger, 656 So. 2d 1253 (Fla. 1995)
- Bryan v. State, 753 So. 2d 1244, 1255 (Fla. 2000)
- Provenzano v. State, 739 So. 2d 1150, 1153 (Fla. 1999)
- Ferguson v. Singletary, 632 So. 2d 53, 58 (Fla. 1993)
- Rodriguez v. State, 753 So. 2d 29, 44-45 (Fla. 2000)
- Demps v. Dugger, 714 So. 2d 365, 368 (Fla. 1998)
- Correll v. Dugger, 558 So. 2d 422, 424 (Fla. 1990)
- Mann v. Moore, 794 So. 2d 595 (Fla. 2001)
- Atwater v. State, 788 So. 2d 223, 227 (Fla. 2001)
- Rutherford v. Moore, 774 So. 2d 637, 645 (Fla. 2000)
- Johnson v. State, 660 So. 2d 637, 647 (Fla. 1995)
- Huff v. State, 622 So. 2d 982 (Fla. 1993)