

SUPREME COURT OF ARKANSAS

Engram v. State, 360 Ark. 140

200 S.W.3d 367 (2004) · No. CR 99-928 · Decided December 16, 2004

SUMMARY

The Arkansas Supreme Court denied Andrew Engram’s motion to recall the mandate and reopen his capital-murder case to pursue a claim under *Atkins v. Virginia* concerning mental retardation and execution. The court held that Engram had not timely raised the issue under Arkansas’s statutory procedure, distinguished the extraordinary circumstances in *Robbins v. State*, and concluded that neither Rule 37 postconviction relief nor state habeas corpus provided an available remedy. Three justices dissented, reasoning that the trial court had failed to rule on a mental-retardation issue that had been raised before trial.

CASE DETAILS

COURT	Supreme Court of Arkansas
WRITING FOR THE COURT	Tom Glaze; Corbin; Brown; Thornton
JURISDICTION	Arkansas
DECIDED	December 16, 2004
DOCKET	CR 99-928
DISPOSITION	other
PROCEDURAL POSTURE	Petitioner's motion to recall the Arkansas Supreme Court's mandate and reopen his capital-murder case so that he could pursue a claim that his execution was barred by <i>Atkins v. Virginia</i> .
STANDARD OF REVIEW	The court reviewed whether extraordinary circumstances justified recalling its mandate and reopening a concluded capital case; it applied Arkansas procedural rules governing mandate recall, Rule 37 postconviction relief, and state habeas corpus.
PRECEDENTIAL VALUE	published precedential opinion
PARTIES	Andrew R. Engram v. State of Arkansas

TOPICS

- post-conviction relief
- habeas corpus
- appellate procedure
- criminal procedure
- cruel and unusual punishment

PRACTICE AREAS

criminal procedure

capital punishment

post-conviction relief

habeas corpus

appellate procedure

QUESTIONS PRESENTED

1. Whether the Arkansas Supreme Court should recall its mandate and reopen Engram's capital case to permit litigation of an Atkins mental-retardation claim.
2. Whether the failure to obtain a circuit-court ruling on mental retardation supported application of a Wicks exception or otherwise constituted extraordinary circumstances warranting mandate recall.
3. Whether Engram could obtain additional Rule 37 postconviction relief after his appointed counsel deliberately declined to file a petition within the applicable deadline.
4. Whether state habeas corpus was available to challenge Engram's death sentence.

HOLDINGS

1. The court declined to recall its mandate or reopen Engram's case because his circumstances were materially different from the extraordinary circumstances in Robbins and he could have raised and litigated the mental-retardation issue before trial.
2. Engram could not use Atkins as a basis for reopening the case because Arkansas already had a statutory procedure addressing mental retardation in capital cases, and he failed to invoke that procedure or obtain a ruling.
3. The failure to obtain a ruling on Engram's mental-retardation issue did not warrant application of the first Wicks exception.
4. Engram was not entitled to pursue an untimely Rule 37 petition or a new form of post-postconviction relief.
5. State habeas corpus was not an appropriate avenue for Engram's Atkins-related claim.

KEY QUOTATIONS

“one of a kind, not to be repeated.” (at 369)

“This is simply not a case like Robbins, where the alleged error was an error in this court's own review of the case on appeal, and this court was asked to reopen the case to address its own error.” (at 372)

“There is no provision in our law that provides for petitions for “post-postconviction relief,” i.e., a mechanism for filing an ineffective-assistance-of-counsel petition with respect to the counsel appointed to handle the Rule 37 petition.” (at 375)

FACTUAL BACKGROUND

Engram was convicted of capital murder and rape for the killing of Laura White and received a death sentence. At a pretrial competency hearing, a forensic psychologist testified that Engram's IQ scores were in a range of approximately 76 to 86 and opined that he was not mentally retarded, but the circuit court ruled only on

competency and did not expressly decide mental retardation. Engram later sought to raise an Atkins claim after the United States Supreme Court held that executing mentally retarded persons violates the Eighth Amendment.

PROCEDURAL HISTORY

Engram was convicted of capital murder and rape and sentenced to death. The Arkansas Supreme Court affirmed, the United States Supreme Court denied certiorari, and the Arkansas mandate issued. After appointed postconviction counsel declined to pursue Rule 37 relief, Engram filed federal habeas proceedings and obtained dismissal without prejudice so he could exhaust his Atkins-related claim in state court. The Arkansas Supreme Court treated his motion to recall the mandate as a case and denied relief.

DISPOSITION

other

CASES CITED

- Engram v. State, 341 Ark. 196, 15 S.W.3d 678 (2000)
- Engram v. Arkansas, 531 U.S. 1081, 121 S. Ct. 783, 148 L. Ed. 2d 679 (2001)
- Robbins v. State, 353 Ark. 556, 114 S.W.3d 217 (2003)
- Atkins v. Virginia, 536 U.S. 304, 122 S. Ct. 2242, 153 L. Ed. 2d 335 (2002)
- Penry v. Lynaugh, 492 U.S. 302, 109 S. Ct. 2934, 106 L. Ed. 2d 256 (1989)
- State v. Robbins, 335 Ark. 380, 985 S.W.2d 293 (1998) (per curiam)
- State v. Robbins, 336 Ark. 377, 985 S.W.2d 296 (1999) (per curiam)
- State v. Robbins, 337 Ark. 227, 987 S.W.2d 709 (1999) (per curiam)
- State v. Robbins, 339 Ark. 379, 5 S.W.3d 51 (1999)
- Robbins v. State, 342 Ark. 262, 27 S.W.3d 419 (2000)
- Willett v. State, 322 Ark. 613, 911 S.W.2d 937 (1995)
- State v. Earl, 336 Ark. 271, 984 S.W.2d 442 (1999)
- State v. Earl, 333 Ark. 489, 970 S.W.2d 789 (1998)
- Knowles v. Iowa, 525 U.S. 113, 119 S. Ct. 484, 142 L. Ed. 2d 492 (1998)
- Rankin v. State, 329 Ark. 379, 948 S.W.2d 397 (1997)
- Reams v. State, 322 Ark. 336, 909 S.W.2d 324 (1995)
- Anderson v. State, 357 Ark. 180, 163 S.W.3d 333 (2004)
- Jackson v. State, 343 Ark. 613, 37 S.W.3d 595 (2001)
- Porter v. State, 339 Ark. 15, 2 S.W.3d 73 (1999)
- Petree v. State, 323 Ark. 570, 920 S.W.2d 819 (1995)
- Larimore v. State, 327 Ark. 271, 938 S.W.2d 818 (1997)
- Robinson v. State, 295 Ark. 693, 751 S.W.2d 335 (1988)
- Renshaw v. Norris, 337 Ark. 494, 989 S.W.2d 515 (1999)

- Flowers v. Norris, 347 Ark. 760, 68 S.W.3d 289 (2002)
- Lee v. State, 343 Ark. 702, 38 S.W.3d 334 (2001)
- Trimble v. State, 336 Ark. 437, 986 S.W.2d 392 (1999)

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