

SUPREME COURT OF MISSISSIPPI

Timothy Nelson Evans a/k/a Timothy N. Evans a/k/a Timothy Evans a/k/a Tim Evans v. State of Mississippi

No. 2017-DR-01385-SCT (Miss. Mar. 12, 2020) · No. 2017-DR-01385-SCT · Decided March 12, 2020

SUMMARY

The Supreme Court of Mississippi considered Timothy Nelson Evans's application for post-conviction relief following his capital-murder conviction and death sentence. Evans alleged ineffective assistance of trial counsel concerning mitigation investigation and presentation, improper prosecutorial argument, and failure to communicate a plea offer, and he argued that permanent mental illness categorically barred the death penalty. The court concluded that the claims failed to make a substantial showing of the denial of a state or federal right and denied post-conviction relief.

CASE DETAILS

COURT	Supreme Court of Mississippi
WRITING FOR THE COURT	Randolph, C.J., for the Court; Randolph, C.J.; Kitchens, P.J.; King, P.J.; Coleman, J.; Maxwell, J.; Beam, J.; Chamberlin, J.; Ishee, J.; Griffis, J.
JURISDICTION	Mississippi
DECIDED	March 12, 2020
DOCKET	2017-DR-01385-SCT
DISPOSITION	denied
PROCEDURAL POSTURE	Evans sought post-conviction relief in a capital case and requested leave to proceed in the trial court with a petition for post-conviction relief. The Mississippi Supreme Court denied leave and denied post-conviction relief.
STANDARD OF REVIEW	Under Mississippi Code Sections 99-39-7 and 99-39-27(5), leave to proceed is granted only when the application and record show that the claims are not procedurally barred and make a substantial showing of the denial of a state or federal right. Well-pleaded allegations are accepted as true, and nonprocedurally barred claims in capital cases receive heightened scrutiny, with bona fide doubts resolved in favor of the accused. Ineffective-assistance claims are evaluated under Strickland's deficient-performance and prejudice requirements.

PRECEDENTIAL VALUE	precedential
PARTIES	Timothy Nelson Evans a/k/a Timothy N. Evans a/k/a Timothy Evans a/k/a Tim Evans v. State of Mississippi

TOPICS

state post-conviction relief ineffective assistance post-conviction relief sentencing
cruel and unusual punishment

PRACTICE AREAS

capital post-conviction litigation criminal procedure ineffective assistance of counsel
death penalty sentencing

QUESTIONS PRESENTED

1. Whether Evans was entitled to post-conviction relief based on ineffective assistance of trial counsel in investigating, presenting, and explaining mitigating evidence.
2. Whether trial counsel was ineffective for failing to object to allegedly improper prosecutorial closing arguments.
3. Whether trial counsel was ineffective for failing to communicate or obtain a plea offer in exchange for a life sentence.
4. Whether Evans should be categorically exempt from the death penalty because of permanent mental illness or neurocognitive impairment.

HOLDINGS

1. Evans failed to make a substantial showing that trial counsel performed deficiently or that the additional mitigation evidence would have created a reasonable probability that at least one juror would have imposed a life sentence rather than death.
2. Evans failed to establish Strickland prejudice from counsel's failure to object to the prosecution's references to mercy, the victim's perspective, or the credit-card offense.
3. Evans failed to show that the State made a formal plea offer; therefore, counsel could not have been deficient for failing to communicate such an offer.
4. Mississippi law does not categorically exempt mentally ill defendants from the death penalty when they are not intellectually disabled and are otherwise constitutionally eligible for execution.

KEY QUOTATIONS

“Because this Court concludes that Evans’s PCR claims fail to present a substantial showing of the denial of a state or federal right, the PCR is denied.” (¶ 3)

“this Court concludes that Evans fails to make the requisite showing of deficient performance by trial counsel in investigating, presenting, and explaining all available mitigation evidence.” (§ 39)

“We cannot take the Atkins opinion—which was so specific to mental retardation that the Court cited and discussed the clinical definition of mental retardation—and apply it to all other mental disorders.” (§ 62)

“POST-CONVICTION RELIEF DENIED.” (§ 64)

FACTUAL BACKGROUND

Evans was convicted of strangling Wenda Holling, a seventy-two-year-old woman with whom he had previously been romantically involved, during a robbery. He took Holling's credit card and used it at several locations before it was declined, and he later made statements acknowledging that he had planned to kill Holling to obtain the card. During the penalty phase, two mental-health experts testified about Evans's troubled childhood, substance abuse, and possible emotional disturbance, but neither could corroborate much of his reported history. Post-conviction counsel offered affidavits from Evans's brother and a psychologist concerning additional childhood trauma, possible fetal alcohol exposure, neurocognitive deficits, and trauma-related disorders.

PROCEDURAL HISTORY

A Hancock County jury convicted Evans of capital murder during a robbery and sentenced him to death in 2013. The Mississippi Supreme Court affirmed the conviction and sentence on June 15, 2017, denied rehearing, and issued its mandate on October 5, 2017; the United States Supreme Court denied certiorari. Evans filed a motion for post-conviction relief or, alternatively, for leave to proceed in the trial court on October 5, 2018. The Mississippi Supreme Court held that none of his claims made a substantial showing of the denial of a state or federal right.

DISPOSITION

denied

CASES CITED

- Evans v. State, 226 So. 3d 1 (Miss. 2017)
- Simon v. State, 857 So. 2d 668 (Miss. 2003)
- Moore v. Ruth, 556 So. 2d 1059 (Miss. 1990)
- Crawford v. State, 218 So. 3d 1142 (Miss. 2016)
- Chamberlin v. State, 55 So. 3d 1046 (Miss. 2010)
- Ronk v. State, 267 So. 3d 1239 (Miss. 2019)
- Archer v. State, 986 So. 2d 951 (Miss. 2008)
- Woodward v. State, 635 So. 2d 805 (Miss. 1993)
- Perkins v. State, 487 So. 2d 791 (Miss. 1986)
- Strickland v. Washington, 466 U.S. 668 (1984)
- State v. Tonkman, 564 So. 2d 1339 (Miss. 1990)

- Wiggins v. Smith, 539 U.S. 510 (2003)
- Ross v. State, 954 So. 2d 968 (Miss. 2007)
- Howard v. State, 853 So. 2d 781 (Miss. 2003)
- Isham v. State, 161 So. 3d 1076 (Miss. 2015)
- Hutto v. State, 286 So. 3d 653 (Miss. 2019)
- Turner v. State, 953 So. 2d 1063 (Miss. 2007)
- Buckner v. Polk, 453 F.3d 195 (4th Cir. 2006)
- Moore v. Parker, 425 F.3d 250 (6th Cir. 2005)
- Thompson v. Bell, 315 F.3d 566 (6th Cir. 2003)
- Davis v. State, 87 So. 3d 465 (Miss. 2012)
- Missouri v. Frye, 566 U.S. 134 (2012)
- Holliman v. State, 79 So. 3d 496 (Miss. 2011)
- Wells v. State, 698 So. 2d 497 (Miss. 1997)
- Danner v. Mid-State Paving Co., 173 So. 2d 608 (Miss. 1965)
- Atkins v. Virginia, 536 U.S. 304 (2002)
- Roper v. Simmons, 543 U.S. 551 (2005)
- Dickerson v. State, 175 So. 3d 8 (Miss. 2015)
- Ripkowski v. Thaler, 438 Fed. Appx. 296 (5th Cir. 2011)