

SUPREME COURT OF TENNESSEE

Brice Cook v. State of Tennessee

No. W2018-00237-SC-R11-PC · No. No. W2018-00237-SC-R11-PC · Decided August 25, 2020

SUMMARY

The Tennessee Supreme Court held that the post-conviction judge was required to recuse himself because his comments created a reasonable basis to question his impartiality. The court concluded that recusal was required even though the petitioner had not filed a recusal motion. It reversed the Court of Criminal Appeals, vacated the post-conviction court's judgment, and remanded for a new hearing before a different judge.

CASE DETAILS

COURT	Supreme Court of Tennessee
WRITING FOR THE COURT	Cornelia A. Clark; Jeffrey S. Bivins, Chief Justice; Sharon G. Lee; Holly Kirby; Roger A. Page
JURISDICTION	Tennessee
DECIDED	August 25, 2020
DOCKET	No. W2018-00237-SC-R11-PC
DISPOSITION	reversed_and_remanded
PROCEDURAL POSTURE	Appeal by permission from the Tennessee Court of Criminal Appeals in a post-conviction proceeding. The petitioner challenged the denial of post-conviction relief and argued that the post-conviction judge was required to recuse himself.
STANDARD OF REVIEW	De novo review applies to the legal question whether the post-conviction judge's comments established that recusal was required.
PRECEDENTIAL VALUE	published precedential opinion
PARTIES	Brice Cook v. State of Tennessee

TOPICS

state post-conviction relief post-conviction relief appellate procedure criminal procedure
standard of review

PRACTICE AREAS

QUESTIONS PRESENTED

1. Whether the post-conviction judge's comments and conduct created a reasonable basis to question his impartiality under Tennessee Supreme Court Rule 10, Rule of Judicial Conduct 2.11(A), requiring recusal.
2. Whether Cook's failure to file a written motion for recusal waived or otherwise barred appellate consideration of the recusal issue.

HOLDINGS

1. A post-conviction judge must recuse himself when, under the objective standard, a person of ordinary prudence knowing the facts known to the judge would find a reasonable basis to question the judge's impartiality. Judge Coffee's comments and conduct created such a reasonable basis, so Rule of Judicial Conduct 2.11 required his recusal.
2. Cook's failure to file a recusal motion was not dispositive because Rule of Judicial Conduct 2.11 independently obligated the judge to recuse himself under the circumstances, even without a motion.

KEY QUOTATIONS

"A judge shall disqualify himself or herself in any proceeding in which the judge's impartiality might reasonably be questioned[.]" (at 8)

"Under this objective test, recusal is required if "a person of ordinary prudence in the judge's position, knowing all of the facts known to the judge, would find a reasonable basis for questioning the judge's impartiality." (at 9)

"In the circumstances of this case, where Rule of Judicial Conduct 2.11 obligated the post-conviction judge to recuse, the petitioner's failure to file a recusal motion is not dispositive." (at 12)

FACTUAL BACKGROUND

Brice Cook was convicted of first-degree premeditated murder after a second trial arising from the shooting death of Shantell Lane; he claimed self-defense. In his post-conviction proceeding, Cook alleged ineffective assistance of counsel, including that counsel failed to timely communicate a confirmed plea offer. During the hearing and in denying relief, Judge Lee V. Coffee made extensive comments praising Cook's trial attorneys, disparaging Cook's ineffective-assistance claims and counsel, and expressing disdain for Tennessee post-conviction proceedings. The Supreme Court concluded that these comments, considered with the judge's conduct during the hearing, created a reasonable basis to question his impartiality.

PROCEDURAL HISTORY

Cook was convicted of first-degree premeditated murder after a second trial and received a life sentence. He filed a timely petition for post-conviction relief alleging ineffective assistance of counsel, including failure to timely communicate a plea offer. The post-conviction court denied relief. The Court of Criminal Appeals

affirmed and deemed the recusal claim waived because Cook had not filed a recusal motion. The Tennessee Supreme Court granted permission to appeal, reversed the intermediate appellate judgment, vacated the post-conviction judgment, and remanded for a new hearing before a different judge.

DISPOSITION

reversed_and_remanded

REMAND INSTRUCTIONS

Vacate the post-conviction court's judgment and conduct a new post-conviction hearing before a different judge. The newly assigned judge must evaluate Cook's underlying post-conviction claims based on the evidence presented at the new hearing.

CASES CITED

- State v. Cook, No. W2012-00406-CCA-R3-CD, 2013 WL 9570493 (Tenn. Crim. App. Sept. 4, 2013)
- Bruton v. United States, 391 U.S. 123, 137 (1968)
- Davis v. Liberty Mutual Insurance Co., 38 S.W.3d 560, 564-65 (Tenn. 2001)
- Leighton v. Henderson, 414 S.W.2d 419, 420-21 (Tenn. 1967)
- Kinard v. Kinard, 986 S.W.2d 220, 227-28 (Tenn. Ct. App. 1998)
- Alley v. State, 882 S.W.2d 810, 820 (Tenn. Crim. App. 1994)
- State v. Reid, 213 S.W.3d 792, 815 (Tenn. 2006)
- In re Cameron, 151 S.W. 64, 76, 79 (Tenn. 1912)
- State v. Lynn, 924 S.W.2d 892, 898 (Tenn. 1996)
- Offutt v. United States, 348 U.S. 11, 13-14 (1954)
- Bean v. Bailey, 280 S.W.3d 798, 803 (Tenn. 2009)
- Davis v. Tennessee Department of Employment Security, 23 S.W.3d 304, 313 (Tenn. Ct. App. 1999)
- In re Murchison, 349 U.S. 133, 136 (1955)
- Buschardt v. Jones, 998 S.W.2d 791, 803-04 (Mo. Ct. App. 1999)
- State v. Kizzie, No. W2015-01977-CCA-R8-CO (Tenn. Crim. App. Dec. 3, 2015)
- West v. Schofield, 460 S.W.3d 113, 131 (Tenn. 2015)
- Reeder v. Holt, 418 S.W.2d 249, 252 (Tenn. 1967)
- Mayes v. Bailey, 352 S.W.2d 220, 223 (Tenn. 1961)
- Jackson v. Aldridge, 6 S.W.3d 501, 503 (Tenn. Ct. App. 1999)
- State ex rel. Witcher v. Bilbrey, 878 S.W.2d 567, 576 (Tenn. Ct. App. 1994)
- Moore-Pennoyer v. State, 515 S.W.3d 271, 276 (Tenn. 2017)

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