

SUPREME COURT OF OHIO

State v. Hill

90 Ohio St. 3d 571 (Ohio 2001) · Decided January 17, 2001

SUMMARY

The Supreme Court of Ohio affirmed the denial of Genesis Hill’s application to reopen his criminal appeal under Ohio Appellate Rule 26(B). The court held that Hill failed to establish a genuine issue regarding ineffective assistance of appellate counsel under the Strickland standard, noting that counsel had raised numerous assignments of error, could not rely on facts outside the record, and was not required to raise waived or legally unsupported claims.

CASE DETAILS

COURT	Supreme Court of Ohio
WRITING FOR THE COURT	Per Curiam; Moyer, C.J.; Douglas, J.; Resnick, J.; F.E. Sweeney, J.; Pfeifer, J.; Cook, J.; Lundberg Stratton, J.
JURISDICTION	Ohio
DECIDED	January 17, 2001
DISPOSITION	affirmed
PROCEDURAL POSTURE	Hill appealed as of right from the denial by the Ohio Court of Appeals of his application to reopen his criminal appeal under Ohio Appellate Rule 26(B), based on alleged ineffective assistance of appellate counsel.
STANDARD OF REVIEW	The court applied the two-pronged Strickland v. Washington standard to determine whether Hill raised a genuine issue regarding ineffective assistance of appellate counsel sufficient to justify reopening under App.R. 26(B).
PRECEDENTIAL VALUE	Published Ohio Supreme Court opinion; precedential.
PARTIES	Genesis Hill v. State of Ohio

TOPICS

- ineffective assistance
- post-conviction relief
- appellate procedure
- criminal procedure
- state post-conviction relief

PRACTICE AREAS

criminal procedure

appellate procedure

post-conviction relief

ineffective assistance

QUESTIONS PRESENTED

1. What standard governs whether an applicant has established a genuine issue of ineffective assistance of appellate counsel under Ohio Appellate Rule 26(B)?
2. Whether Hill demonstrated deficient performance and a reasonable probability of success on appeal sufficient to justify reopening his appeal.
3. Whether appellate counsel was ineffective for failing to raise additional assignments of error, including claims based on matters outside the trial record, waived issues, and issues lacking sufficient merit.

HOLDINGS

1. The two-pronged analysis from *Strickland v. Washington* is the appropriate standard for determining whether an applicant has raised a genuine issue concerning the ineffectiveness of appellate counsel in an App.R. 26(B) reopening application.
2. Hill failed to establish a genuine issue that appellate counsel rendered ineffective assistance, and therefore he was not entitled to reopen his appeal under App.R. 26(B).

KEY QUOTATIONS

“The two-pronged analysis found in Strickland v. Washington (1984), 466 U.S. 668, 104 S.Ct. 2052, 80 L.Ed.2d 674, is the appropriate standard to assess whether Hill has raised a “genuine issue,” as to the ineffectiveness of appellate counsel, in his request to reopen under App.R. 26(B)(5).” (90 Ohio St. 3d at 571)

“Accordingly, the judgment of the court of appeals is affirmed.” (90 Ohio St. 3d at 572)

FACTUAL BACKGROUND

Hill was convicted of aggravated burglary, kidnapping, and the aggravated murder of his six-month-old daughter and was sentenced to death, with additional prison sentences for kidnapping and aggravated burglary. His appellate counsel raised twenty-nine assignments of error in the initial appeal. In seeking reopening, Hill asserted that appellate counsel should have raised additional issues, some of which depended on evidence outside the trial record, involved matters waived at trial, or were precluded by settled law.

PROCEDURAL HISTORY

Hill was convicted of aggravated burglary, kidnapping, and aggravated murder and received a death sentence, and his convictions and sentence were affirmed on direct appeal. His petition for post-conviction relief was denied, and the denial was affirmed. Hill later filed an App.R. 26(B) application alleging ineffective assistance of appellate counsel; the court of appeals denied reopening because the application was untimely and Hill failed to show good cause. The Supreme Court of Ohio affirmed, but for reasons different from those relied on by the court of appeals.

DISPOSITION

affirmed

CASES CITED

- State v. Hill, 75 Ohio St. 3d 195, 661 N.E.2d 1068 (1996)
- State v. Spivey, 84 Ohio St. 3d 24, 25, 701 N.E.2d 696, 697 (1998)
- State v. Reed, 74 Ohio St. 3d 534, 535, 660 N.E.2d 456, 458 (1996)
- Walker v. Gibson, 228 F.3d 1217, 1237 (C.A.10 2000)
- United States v. Cook, 45 F.3d 388, 395 (C.A.10 1995)
- Boyd v. Ward, 179 F.3d 904, 914 (C.A.10 1999)
- State v. Bradley, 42 Ohio St. 3d 136, 538 N.E.2d 373, paragraph three of the syllabus (1989)
- State v. Campbell, 69 Ohio St. 3d 38, 53, 630 N.E.2d 339, 353 (1994)
- Jones v. Barnes, 463 U.S. 745, 753, 103 S.Ct. 3308, 3313, 77 L.Ed.2d 987, 994 (1983)
- State v. Ishmail, 54 Ohio St. 2d 402, 8 O.O.3d 405, 377 N.E.2d 500, paragraph one of the syllabus (1978)
- State v. Coleman, 85 Ohio St. 3d 129, 133, 707 N.E.2d 476, 483 (1999)
- Cunningham v. Henderson, 725 F.2d 32, 36 (C.A.2 1984)
- State v. Murnahan, 63 Ohio St. 3d 60, 584 N.E.2d 1204 (1992)
- Hill v. Mitchell, 30 F. Supp. 2d 997 (S.D. Ohio 1998)