

SUPREME COURT OF OHIO

State v. Lloyd

2022-Ohio-4259 (Ohio 2022) · No. 2021-0860 · Decided December 1, 2022

SUMMARY

The Supreme Court of Ohio affirmed Cronie W. Lloyd’s convictions for felony murder and felonious assault arising from a one-punch homicide. The court held that defense counsel’s closing argument did not demonstrate a misunderstanding of the law and that counsel was not ineffective for failing to request lesser-included or inferior-degree offense instructions to which Lloyd was not entitled. Three justices dissented, concluding that counsel’s statements reflected deficient performance and that the ineffective-assistance claim should be remanded for consideration of prejudice.

CASE DETAILS

COURT	Supreme Court of Ohio
WRITING FOR THE COURT	DeWine, J.; O'Connor, C.J.; Kennedy, J.; Fischer, J.; Donnelly, J.; Stewart, J.; Brunner, J.
JURISDICTION	Ohio
DECIDED	December 1, 2022
DOCKET	2021-0860
DISPOSITION	affirmed
PROCEDURAL POSTURE	Lloyd appealed to the Supreme Court of Ohio from an Eighth District Court of Appeals judgment affirming his convictions for felony murder and felonious assault. The Supreme Court accepted jurisdiction only over whether evidence that trial counsel misunderstood the elements of the charged offense could overcome the presumption that counsel's decision to pursue an all-or-nothing defense was trial strategy.
STANDARD OF REVIEW	Ineffective-assistance claims are analyzed under the two-part Strickland test. Deficient performance is evaluated under an objective-reasonableness standard with substantial deference to strategic decisions; prejudice requires a reasonable probability that the result would have been different. The court also applied the conclusively-established rule to an issue decided below but not accepted for Supreme Court review.

PRECEDENTIAL VALUE	published
PARTIES	Cronie W. Lloyd v. State of Ohio

TOPICS

ineffective assistance jury instructions lesser included offense instructions sixth amendment
criminal procedure

PRACTICE AREAS

criminal law criminal procedure constitutional law appellate procedure

QUESTIONS PRESENTED

1. Whether trial counsel's closing argument demonstrated a misunderstanding of the elements of felonious assault and felony murder sufficient to overcome the presumption of reasonable trial strategy under Strickland.
2. Whether counsel was ineffective for failing to request jury instructions on lesser-included offenses and inferior-degree offenses when the defendant was not entitled to those instructions under the evidence.
3. Whether the court should reach the prejudice prong of the ineffective-assistance claim.

HOLDINGS

1. Lloyd failed to demonstrate that trial counsel misunderstood the law. Read as a whole, counsel's statements identifying death as the serious physical harm did not establish that she misunderstood the elements of felonious assault.
2. Counsel was not ineffective for failing to request instructions on lesser-included or inferior-degree offenses because Lloyd was not entitled to those instructions, and requesting them would have been futile.
3. The court did not reach the prejudice prong of Strickland because Lloyd failed to establish deficient performance.

KEY QUOTATIONS

“Lloyd’s attorney cannot be ineffective for failing to make a fruitless request.” (§ 3)

“One cannot be ineffective for failing to make a request that would have been denied.” (§ 30)

FACTUAL BACKGROUND

After a minor automobile accident outside a bar, Cronie Lloyd and 83-year-old Gary Power stopped at a gas station. Lloyd approached Power and punched him in the face, causing Power to fall, strike his head on concrete, lose consciousness, and later die from his injuries. Lloyd's counsel argued that he did not knowingly cause the serious physical harm alleged and pursued causation theories involving a later impact or Narcan administration, but did not request instructions on lesser-included or inferior-degree offenses.

PROCEDURAL HISTORY

Lloyd was convicted of felony murder and felonious assault after a jury trial. The Eighth District affirmed, rejecting his ineffective-assistance claim based on counsel's failure to request lesser-included and inferior-degree offense instructions and rejecting his claim that the trial court plainly erred by failing to give those instructions sua sponte. The Supreme Court of Ohio affirmed the appellate judgment and did not reach the prejudice prong of the ineffective-assistance analysis.

DISPOSITION

affirmed

CASES CITED

- *McMann v. Richardson*, 397 U.S. 759, 771 & n.14 (1970)
- *Strickland v. Washington*, 466 U.S. 668, 686-90, 694, 697 (1984)
- *Michel v. Louisiana*, 350 U.S. 91, 101 (1955)
- *State v. Phillips*, 27 Ohio St.2d 294, 302, 272 N.E.2d 347 (1971)
- *Meyer v. United Parcel Serv., Inc.*, 122 Ohio St.3d 104, 2009-Ohio-2463, 909 N.E.2d 106, ¶ 8 n.3
- *State v. Thomas*, 40 Ohio St.3d 213, 216-217, 533 N.E.2d 286 (1988)
- *State v. Shane*, 63 Ohio St.3d 630, 632-633, 590 N.E.2d 272 (1992)
- *Gideon v. Wainwright*, *Gideon v. Wainwright*, 372 U.S. 335, 344 (1963)
- *State v. Wine*, 140 Ohio St.3d 409, 2014-Ohio-3948, 18 N.E.3d 1207, ¶ 33
- *State v. Koch*, 2019-Ohio-4099, 146 N.E.3d 1238, ¶ 84 (2d Dist.)
- *State v. Thornton*, 2d Dist. Montgomery No. 20652, 2005-Ohio-3744, ¶ 48
- *State v. Brisbon*, 8th Dist. Cuyahoga No. 105591, 2018-Ohio-2303, ¶ 27
- *Williams v. Taylor*, 529 U.S. 362, 395-396 (2000)
- *Smith v. Dretke*, 417 F.3d 438, 442 (5th Cir. 2005)
- *People v. Pugh*, 157 Ill. 2d 1, 19, 623 N.E.2d 255 (1993)
- *Kimmelman v. Morrison*, 477 U.S. 365, 385 (1986)
- *Riley v. Wyrick*, 712 F.2d 382, 385 (8th Cir. 1983)
- *United States v. Span*, 75 F.3d 1383, 1390 (9th Cir. 1996)
- *Richards v. Quarterman*, 566 F.3d 553, 569 (5th Cir. 2009)
- *Vujosevic v. Rafferty*, 844 F.2d 1023, 1027 (3d Cir. 1988)
- *Crace v. Herzog*, 798 F.3d 840, 848, 850-853 (9th Cir. 2015)
- *Keeble v. United States*, 412 U.S. 205, 212-213 (1973)
- *United States ex rel. Barnard v. Lane*, 819 F.2d 798, 803-805 (7th Cir. 1987)
- *State v. Edwards*, 52 Ohio App.2d 120, 122, 368 N.E.2d 302 (6th Dist. 1976)
- *State v. Cliff*, 19 Ohio St.2d 31, 33, 249 N.E.2d 823 (1969)
- *State v. Antill*, 176 Ohio St. 61, 65, 197 N.E.2d 548 (1964)

- State v. Wilkins, 64 Ohio St.2d 382, 388, 415 N.E.2d 303 (1980)
- Stevenson v. United States, 162 U.S. 313, 323 (1896)
- State v. McFadden, 10th Dist. Franklin No. 95APA03-384, 1995 WL 694481, *4 (Nov. 21, 1995)
- State v. Hampton, 8th Dist. Cuyahoga No. 103373, 2016-Ohio-5321, ¶ 28

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