

UNITED STATES COURT OF APPEALS FOR THE SIXTH CIRCUIT

Brandon Hobbs v. Mark Hooks

No. No. 17-4094, United States Court of Appeals for the Sixth Circuit (July 16, 2018)

SUMMARY

Brandon Hobbs v. Mark Hooks (6th Cir. 2018) – Habeas corpus; ineffective assistance of counsel. The Sixth Circuit affirmed denial of habeas relief, holding that the state appellate court reasonably applied Strickland v. Washington when it concluded that trial counsel’s decision to admit prejudicial evidence of Hobbs’s drug dealing and gun possession was a legitimate trial strategy to bolster credibility and support a self-defense claim. Under AEDPA’s double deference, the state court’s factual finding that counsel’s conduct was strategic rather than ignorant was not unreasonable, and the independent claim regarding failure to request a curative instruction was procedurally barred.

CASE DETAILS

COURT	United States Court of Appeals for the Sixth Circuit
WRITING FOR THE COURT	Rogers; Keith; Kethledge
JURISDICTION	Federal
DECIDED	July 16, 2018
DOCKET	No. 17-4094
DISPOSITION	affirmed
PROCEDURAL POSTURE	Appeal from the United States District Court for the Southern District of Ohio denial of habeas corpus petition.
STANDARD OF REVIEW	Deferential standard under AEDPA; habeas relief only if state court decision was contrary to or unreasonable application of clearly established federal law or based on unreasonable factual determination.
PRECEDENTIAL VALUE	Unpublished
PARTIES	Brandon L. Hobbs v. Mark Hooks, Warden

TOPICS

- habeas corpus
- ineffective assistance
- criminal procedure
- evidence
- self defense
- standard of review

PRACTICE AREAS

QUESTIONS PRESENTED

1. Whether the state appellate court unreasonably applied *Strickland v. Washington* in concluding that Hobbs's trial counsel provided effective assistance by allowing evidence of Hobbs's prior drug dealing and gun possession as a legitimate trial strategy.

HOLDINGS

1. The state appellate court's conclusion that Hobbs's trial counsel's performance fell within the wide range of reasonable professional assistance was neither contrary to clearly established federal law nor based on an unreasonable determination of facts.

KEY QUOTATIONS

"Here, a reasonable argument exists that, given the circumstances of Hobbs's case, counsel's performance satisfied Strickland's deferential standard." (at 9)

"Mr. Hobbs did not seek to hide the truth. In fact, he wanted the truth to be told during this trial. ... They told you like it was. It didn't matter whether or not the fact[s] were good; it didn't matter whether or not the facts were bad; it didn't matter whether the facts were ugly. They told you." (at 12-13)

FACTUAL BACKGROUND

In September 2012, Brandon Hobbs sold a used Chevrolet Suburban to Jaron Kirkling. After a dispute over license plates, Hobbs confronted Kirkling at a friend's house. During the argument, Hobbs shot and killed Kirkling. Hobbs claimed self-defense, asserting that Kirkling pulled a gun first. However, prosecution witnesses testified that Kirkling did not have a weapon. Hobbs had a history of drug dealing and gun possession. At trial, Hobbs's counsel allowed evidence of Hobbs's drug dealing and gun possession to be introduced, and even elicited some, as part of a strategy to make Hobbs appear honest and to impeach prosecution witnesses. The jury convicted Hobbs of murder.

PROCEDURAL HISTORY

Hobbs was convicted in Ohio state court of murder. He appealed to the Ohio Court of Appeals, which affirmed. The Ohio Supreme Court declined review. He then filed a federal habeas petition under 28 U.S.C. § 2254, which the district court denied. He appeals that denial.

DISPOSITION

affirmed

CASES CITED

- *Harrington v. Richter*, 562 U.S. 86 (2011)
- *Padilla v. Kentucky*, 559 U.S. 356 (2010)

- Strickland v. Washington, 466 U.S. 668 (1984)
- State v. Williford, 551 N.E.2d 1279 (Ohio 1990)
- White v. McAninch, 235 F.3d 988 (6th Cir. 2000)
- Hinton v. Alabama, 571 U.S. 263 (2014)
- Washington v. Hofbauer, 228 F.3d 689 (6th Cir. 2000)
- Carr v. Schofield, 364 F.3d 1246 (11th Cir. 2004)
- Wood v. Allen, 558 U.S. 290 (2010)
- Berryman v. Morton, 100 F.3d 1089 (3d Cir. 1996)
- McAdoo v. Elo, 365 F.3d 487 (6th Cir. 2004)
- Moore v. Mitchell, 708 F.3d 760 (6th Cir. 2013)
- Anderson v. City of Bessemer City, 470 U.S. 564 (1985)
- Shahideh v. McKee, 488 F. App'x 963 (6th Cir. 2012)
- Miskel v. Karness, 397 F.3d 446 (6th Cir. 2005)
- State v. Cole, 443 N.E.2d 169 (Ohio 1982)
- Pillette v. Foltz, 824 F.2d 494 (6th Cir. 1987)
- Martin v. Mitchell, 280 F.3d 594 (6th Cir. 2002)