

CALIFORNIA COURT OF APPEAL, SECOND APPELLATE DISTRICT,
DIVISION EIGHT

People v. Ruiz; In re Ruiz

People v. Ruiz; In re Ruiz · No. B312062; B317270 · Decided March 15, 2023

SUMMARY

The California Court of Appeal considered Edgar Ruiz’s appeal and related habeas corpus petition challenging the effectiveness of counsel during a resentencing hearing. The court held that counsel’s total inaction constituted a complete denial of the assistance of counsel under *United States v. Cronin* and *Bell v. Cone*, requiring no separate showing of prejudice. Habeas relief was granted, the matter was remanded for a new resentencing hearing, and the appeal was dismissed as moot.

CASE DETAILS

COURT	California Court of Appeal, Second Appellate District, Division Eight
WRITING FOR THE COURT	Stratton, P. J.; Grimes, J.; Viramontes, J.
JURISDICTION	California Court of Appeal, Second Appellate District, Division Eight
DECIDED	March 15, 2023
DOCKET	B312062; B317270
DISPOSITION	remanded
PROCEDURAL POSTURE	Ruiz appealed from the superior court's resentencing proceedings and filed a related petition for writ of habeas corpus alleging ineffective assistance of counsel. The Court of Appeal considered the matters together, granted habeas relief, and dismissed the appeal as moot.
STANDARD OF REVIEW	The court reviewed the habeas petition under the prima facie standard applicable to an order to show cause and determined that no evidentiary hearing was necessary because the material facts were established by the appellate record and declarations. The ineffective-assistance claim was analyzed under the <i>Cronic</i> complete-denial-of-counsel exception rather than <i>Strickland</i> 's prejudice requirement.
PRECEDENTIAL VALUE	published and precedential
PARTIES	Edgar Ruiz v. The People

TOPICS

ineffective assistance

right to counsel

sentencing

habeas corpus

appellate procedure

PRACTICE AREAS

criminal procedure

appellate procedure

post-conviction relief

constitutional law

sentencing

QUESTIONS PRESENTED

1. Whether counsel's total inaction before, during, and after Ruiz's resentencing hearing constituted a complete denial of counsel under *United States v. Cronic* and *Bell v. Cone*.
2. Whether the complete-denial-of-counsel exception to *Strickland* remained valid.
3. Whether Ruiz was entitled to habeas relief without showing prejudice.
4. Whether the related direct appeal should be dismissed as moot after habeas relief was granted.

HOLDINGS

1. The *Cronic* exception permitting prejudice to be presumed when counsel entirely fails to subject the prosecution's case to meaningful adversarial testing remains valid and has not been overruled by *People v. Banks* or *People v. Brown*.
2. Counsel's total inaction before, during, and after Ruiz's resentencing hearing constituted a complete absence of the assistance of counsel and a complete failure to subject the sentencing proceeding to meaningful adversarial testing.
3. Because Ruiz established a complete denial of counsel at a critical resentencing proceeding, prejudice is presumed and he need not demonstrate a reasonable probability of a more favorable result under *Strickland*.
4. Ruiz is entitled to habeas relief, and the matter must be remanded for a new resentencing hearing; the related appeal is dismissed as moot.

KEY QUOTATIONS

"Ruiz had a right to the effective assistance of counsel at his resentencing hearing. As a result of Baker's total inaction on every front, Ruiz was on his own." (p. 13)

"This is not a case where counsel was silent because there was nothing to say. There was no tactical reason to say or do nothing." (p. 13)

"In other words, Baker failed to 'act[] in the role of an advocate' as the Sixth Amendment requires." (p. 10)

FACTUAL BACKGROUND

Ruiz was convicted in 2010 of carjacking, attempted robbery, and arson based on offenses committed shortly after he turned 19, with gang and firearm allegations found true. In 2018, the superior court resentenced him after CDCR identified an error in the original sentence, increasing his term from 26 years four months to life to 27 years eight months to life. Ruiz's trial attorney represented him at resentencing but did not remember him or

the case, filed no documents, made no sentencing argument, failed to present mitigating evidence or challenge the proposed sentence, advised Ruiz not to present supporting materials, and failed to file the promised notice of appeal. Declarations indicated that counsel was suffering from significant cognitive decline attributable to a brain tumor later diagnosed that year.

PROCEDURAL HISTORY

Ruiz was convicted and sentenced in 2010. After the California Department of Corrections and Rehabilitation identified an unauthorized sentencing term, the superior court resentenced him in 2018, increasing his sentence. Ruiz's appointed resentencing counsel provided no meaningful advocacy and failed to file a promised notice of appeal. In 2021, the Court of Appeal granted relief from default, permitted the appeal, issued an order to show cause in the habeas proceeding, and ultimately granted habeas relief.

DISPOSITION

remanded

REMAND INSTRUCTIONS

The matter is remanded to the trial court for a new resentencing hearing. The related appeal is dismissed as moot.

CASES CITED

- People v. Hill, 185 Cal.App.3d 831, 834 (1986)
- In re Serrano, 10 Cal.4th 447, 455 (1995)
- People v. Duvall, 9 Cal.4th 464, 476 (1995)
- United States v. Cronin, 466 U.S. 648, 656, 658-659 (1984)
- Bell v. Cone, 535 U.S. 685, 687, 695-697 (2002)
- Strickland v. Washington, 466 U.S. 668, 688-689 (1984)
- Hamilton v. Alabama, 368 U.S. 52, 54 (1961)
- White v. Maryland, 373 U.S. 59, 60 (1963) (per curiam)
- In re Visciotti, 14 Cal.4th 325, 353 (1996)
- People v. Banks, 59 Cal.4th 1113, 1170 (2014)
- People v. Scott, 61 Cal.4th 363, 391 & fn. 3 (2015)
- In re Avena, 12 Cal.4th 694, 727-728 (1996)
- People v. Brown, 59 Cal.4th 86 (2014)
- Dows v. Wood, 211 F.3d 480, 485 (9th Cir. 2000)
- Smith v. Ylst, 826 F.2d 872, 876 (9th Cir. 1987)
- People v. Garrison, 47 Cal.3d 746, 786 (1989)
- People v. Snow, 30 Cal.4th 43, 117 (2003)
- People v. Fuentes, 1 Cal.5th 218, 229 fn. 8, 231 (2016)

- People v. Campos, 196 Cal.App.4th 438, 451-452 (2011)

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