

SUPREME COURT OF IDAHO

Hairston v. State; State v. Hairston, 144 Idaho 51

156 P.3d 552 (2007) · No. Nos. 28528, 29653, 29680 · Decided March 28, 2007

SUMMARY

The Idaho Supreme Court dismissed James Hairston's consolidated appeals challenging the dismissal of successive post-conviction petitions, a habeas petition, and a motion concerning his death sentences. The court held that Hairston's claims were barred or untimely under Idaho Code section 19-2719, including claims involving ineffective assistance of appellate counsel, denial of mitigation resources, Ring v. Arizona, and an Idaho Criminal Rule 35 motion. The court also declined to reach the merits of his motions to disqualify the district judge because the statutory jurisdictional requirements were not satisfied.

CASE DETAILS

|                       |                                                                                                                                                                                                                                                                                                                                                                      |
|-----------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| COURT                 | Supreme Court of Idaho                                                                                                                                                                                                                                                                                                                                               |
| WRITING FOR THE COURT | Trout, Justice; Trout; Schroeder; Eismann; Burdick; Jones                                                                                                                                                                                                                                                                                                            |
| JURISDICTION          | Idaho                                                                                                                                                                                                                                                                                                                                                                |
| DECIDED               | March 28, 2007                                                                                                                                                                                                                                                                                                                                                       |
| DOCKET                | Nos. 28528, 29653, 29680                                                                                                                                                                                                                                                                                                                                             |
| DISPOSITION           | dismissed                                                                                                                                                                                                                                                                                                                                                            |
| PROCEDURAL POSTURE    | Consolidated appeals from dismissal of successive petitions for post-conviction relief, a petition for writ of habeas corpus, and a motion under Idaho Criminal Rule 35 to correct illegal sentences, vacate death sentences, and obtain a new sentencing hearing. The State moved to dismiss the appeals for lack of jurisdiction under Idaho Code section 19-2719. |
| STANDARD OF REVIEW    | On a State motion to dismiss based on Idaho Code section 19-2719, the Court directly determines whether the statutory requirements have been met and rules accordingly. Whether the jurisdictional requirements are satisfied is a question of law.                                                                                                                  |
| PRECEDENTIAL VALUE    | Published Idaho Supreme Court opinion; precedential.                                                                                                                                                                                                                                                                                                                 |
| PARTIES               | James H. Hairston v. State of Idaho                                                                                                                                                                                                                                                                                                                                  |

TOPICS

successive petitions

state post-conviction relief

appellate jurisdiction

sentencing

statutory interpretation

## PRACTICE AREAS

criminal law

post-conviction litigation

capital punishment

appellate procedure

## QUESTIONS PRESENTED

1. Whether Idaho Code section 19-2719 is unconstitutional because its 42-day filing period is unfair or violates equal protection or due process.
2. Whether Idaho Code section 19-2719 is unconstitutionally vague because it uses the formulations 'should reasonably have been known' and 'could not have reasonably been known.'
3. Whether the Court should overrule *Paz v. State*'s reasonable-time framework for successive capital post-conviction petitions.
4. Whether Hairston's ineffective-assistance-of-appellate-counsel claims were timely under the exception for claims not previously known or reasonably knowable.
5. Whether Hairston's denial-of-resources claim concerning appointment of a mitigation specialist was barred by res judicata and Idaho Code section 19-2719.
6. Whether *Ring v. Arizona* applied retroactively to Hairston's successive collateral proceeding.
7. Whether Idaho Criminal Rule 35 could avoid the jurisdictional and timing limitations of Idaho Code section 19-2719 for a death-sentence challenge.
8. Whether the Court should reach Hairston's motions to disqualify the district judge when the underlying successive petitions did not satisfy section 19-2719.

## HOLDINGS

1. Idaho Code section 19-2719's 42-day deadline for capital post-conviction petitions is constitutional and does not violate equal protection or due process.
2. Idaho Code section 19-2719 is not unconstitutionally vague; it establishes a single objective standard asking whether a claim was known or reasonably should have been known within the applicable period.
3. The Court declined to overrule *Paz v. State* and reaffirmed that claims not known or reasonably knowable within 42 days must be asserted within a reasonable time after they become known or reasonably knowable.
4. Hairston's ineffective-assistance-of-appellate-counsel claims were untimely under Idaho Code section 19-2719 because he waited approximately three years after appellate briefing to assert them.
5. Hairston's claim concerning denial of a mitigation specialist was barred because it had been raised on direct appeal and in the initial post-conviction proceeding and did not fall within the statutory exception for successive petitions.
6. *Ring v. Arizona* did not apply retroactively to Hairston's case, which was final on direct review before *Ring* was decided.

7. Idaho Code section 19-2719, rather than Idaho Criminal Rule 35, governs claims challenging the legality of a death sentence; a defendant may not evade section 19-2719's jurisdictional and timing requirements by filing a Rule 35 motion.

#### KEY QUOTATIONS

*“The statute does not offer two standards. Rather, it identifies two possibilities under a single clear standard: either a defendant reasonably should have known of certain claims and so has waived them, or he reasonably could not have known of certain claims and so may file a successive petition.”* (557)

*“The fact that Hairston now has a mitigation specialist willing to testify to Hairston's deficiencies does not change this Court's analysis.”* (559)

*“Hairston may not avoid the jurisdictional limitations of I.C. § 19-2719 by filing a Rule 35 motion.”* (560)

#### FACTUAL BACKGROUND

Hairston was convicted by a jury of two first-degree murders and robbery arising from the deaths of William and Dalma Fuhriman. The district court imposed two death sentences and a life sentence for robbery. After the Idaho Supreme Court affirmed his convictions and initial post-conviction proceedings, Hairston filed successive petitions asserting ineffective assistance of appellate counsel, denial of resources for a mitigation specialist, a Ring-based sentencing claim, and challenges to the legality of his death sentences.

#### PROCEDURAL HISTORY

Hairston was convicted of two counts of first-degree murder and robbery and sentenced to death for the murders and life imprisonment for robbery. The Idaho Supreme Court affirmed the convictions, sentences, and denial of initial post-conviction relief in 1999. Hairston later filed a second and third state post-conviction petition, a habeas petition, and a Rule 35 motion; the district court dismissed them under Idaho Code section 19-2719, denied motions to disqualify the district judge, and Hairston appealed. The Idaho Supreme Court granted the State's motion to dismiss the consolidated appeals.

#### DISPOSITION

dismissed

#### CASES CITED

- State v. Hairston, 133 Idaho 496, 988 P.2d 1170 (1999)
- Creech v. State, 137 Idaho 573, 51 P.3d 387 (2002)
- State v. Rhoades, 120 Idaho 795, 820 P.2d 665 (1991)
- Fields v. State, 135 Idaho 286, 17 P.3d 230 (2000)
- Pizzuto v. State, 134 Idaho 793, 10 P.3d 742 (2000)
- Pizzuto v. State, 127 Idaho 469, 903 P.2d 58 (1995)
- State v. Beam, 115 Idaho 208, 766 P.2d 678 (1989)

- Olsen v. J.A. Freeman Co., 117 Idaho 706, 791 P.2d 1285 (1990)
- Paz v. State, 123 Idaho 758, 852 P.2d 1355 (1993)
- Porter v. State, 136 Idaho 257, 32 P.3d 151 (2001)
- McKinney v. State, 133 Idaho 695, 992 P.2d 144 (1999)
- Row v. State, 135 Idaho 573, 21 P.3d 895 (2001)
- Ring v. Arizona, 536 U.S. 584 (2002)
- Schriro v. Summerlin, 542 U.S. 348 (2004)
- Porter v. State, 140 Idaho 780, 102 P.3d 1099 (2004)
- Hoffman v. State, 142 Idaho 27, 121 P.3d 958 (2005)
- State v. Leavitt, 141 Idaho 895, 120 P.3d 283 (2005)
- State v. Beam, 121 Idaho 862, 828 P.2d 891 (1992)

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