

SUPREME COURT OF GEORGIA

Sessions v. State

293 Ga. 33 (2013) · Decided May 20, 2013

SUMMARY

The Supreme Court of Georgia affirmed the denial of Calvin Sessions's motion for an out-of-time appeal from his criminal convictions. The court held that the habeas court's finding that Sessions forfeited his right to appeal through his own conduct, together with its adverse ruling on ineffective assistance, precluded relitigation under collateral estoppel.

CASE DETAILS

COURT	Supreme Court of Georgia
WRITING FOR THE COURT	Benham, Justice
JURISDICTION	Georgia
DECIDED	May 20, 2013
DISPOSITION	affirmed
PROCEDURAL POSTURE	Appeal from the denial of a motion for an out-of-time appeal following convictions for murder and related offenses and the denial of prior state habeas corpus relief.
STANDARD OF REVIEW	The Supreme Court reviewed whether the trial court erred in denying the motion for an out-of-time appeal, based on the evidence, the underlying trial record, and the habeas record.
PRECEDENTIAL VALUE	Published, precedential opinion of the Supreme Court of Georgia.
PARTIES	Calvin Sessions v. State

TOPICS

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

PRACTICE AREAS

- criminal appellate procedure
- state habeas corpus
- ineffective assistance of counsel

QUESTIONS PRESENTED

1. Whether the trial court erred in denying Sessions's motion for an out-of-time appeal on the ground that his own conduct, rather than counsel's error, caused the loss of his direct appeal.
2. Whether collateral estoppel barred Sessions from relitigating the ineffective-assistance and forfeiture issues previously decided adversely to him in state habeas proceedings.

HOLDINGS

1. A defendant is not entitled to an out-of-time appeal when sufficient evidence supports a finding that the defendant's own conduct caused the loss of the direct appeal.
2. Collateral estoppel precluded Sessions from relitigating the merits of his ineffective-assistance claim and the cause of his lost appeal after those issues were decided adversely to him in the habeas proceeding.
3. The Constitution does not guarantee a criminal defendant a right to an appeal at all.

KEY QUOTATIONS

“An out-of-time appeal is a judicially-created remedy for a frustrated right of appeal and is granted if the defendant shows he lost his right to a direct appeal through the error of counsel.” (293 Ga. 34)

“the Constitution guarantees no right to an appeal at all” (293 Ga. 34)

FACTUAL BACKGROUND

Sessions was convicted in 1997 of several serious felonies, including murder, and received life and other sentences. He did not file a motion for new trial or notice of appeal. The habeas court found that he knew of his right to appeal, knew he needed to contact the indigent defense coordinator to obtain appellate counsel, and refused or failed to do so. The trial court later found that Sessions had also told trial counsel he did not want Dougherty County attorneys to represent him and that he and his family would seek other counsel.

PROCEDURAL HISTORY

A jury convicted Sessions of multiple counts of murder, felony murder, aggravated assault, firearm possession, armed robbery, and obstruction in December 1997, and the trial court imposed life and other sentences. He filed no motion for new trial or notice of appeal. After a pro se pleading was denied and a state habeas court found that he had forfeited his right to appeal through his own inaction, Sessions filed a 2010 motion for an out-of-time appeal. The trial court denied that motion, finding that Sessions's own conduct caused the loss of his appeal, and the Supreme Court of Georgia affirmed.

DISPOSITION

affirmed

CASES CITED

- *Henderson v. State*, 265 Ga. 317, 318 (454 S.E.2d 458) (1995)
- *Simmons v. State*, 276 Ga. 525, 526-527 (579 S.E.2d 735) (2003)

- Halbert v. Michigan, 545 U.S. 605, 638 (125 S. Ct. 2582, 162 L. Ed. 2d 552) (2005)
- Thomas v. State, 260 Ga. 262, 263 (392 S.E.2d 520) (1990)
- Hunter v. State, 260 Ga. 762 (399 S.E.2d 921) (1991)

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