

FLORIDA THIRD DISTRICT COURT OF APPEAL

Jeff Scott v. State of Florida

Jeff Scott v. State of Florida · No. 3D24-0923 · Decided October 15, 2025

SUMMARY

The Florida Third District Court of Appeal affirmed the denial of Jeff Scott’s post-conviction motion alleging ineffective assistance of counsel. Scott argued that trial counsel improperly advised him not to testify, but the court held that he failed to establish deficient performance under Strickland v. Washington and, alternatively, failed to demonstrate prejudice. The court deferred to the post-conviction court’s credibility findings and concluded that no reasonable attorney would necessarily have been required to advise Scott to testify.

CASE DETAILS

COURT	Florida Third District Court of Appeal
WRITING FOR THE COURT	Gooden, J.; Fernandez, J.; Miller, J.
JURISDICTION	Florida Third District Court of Appeal
DECIDED	October 15, 2025
DOCKET	3D24-0923
DISPOSITION	affirmed
PROCEDURAL POSTURE	Appeal from the denial of a Florida Rule of Criminal Procedure 3.850 motion alleging ineffective assistance of trial counsel based on advice not to testify.
STANDARD OF REVIEW	Mixed standard of review: de novo review of the post-conviction court's rulings on the Strickland performance and prejudice prongs, with deference to factual findings supported by competent, substantial evidence.
PRECEDENTIAL VALUE	published
PARTIES	Jeff Scott v. State of Florida

TOPICS

- post-conviction relief
- ineffective assistance
- right to counsel
- appellate procedure
- standard of review

PRACTICE AREAS

QUESTIONS PRESENTED

1. Whether trial counsel rendered ineffective assistance by advising Scott not to testify.
2. Whether Scott established deficient performance under Strickland by showing that no reasonable attorney would have given the advice not to testify.
3. Whether Scott established prejudice by showing a reasonable probability that the result would have been different had he testified.
4. What standard of review applies to the post-conviction court's factual findings and Strickland determinations.

HOLDINGS

1. Scott failed to establish deficient performance because he did not show that no reasonable attorney would have advised him not to testify. The record supported reasonable strategic bases for the advice, including the inadmissibility of much of Scott's proposed testimony, counsel's cross-examination and closing strategy, and the fact that Scott's defense theory was presented through other witnesses.
2. Scott failed to establish prejudice because he did not show a reasonable probability that the outcome would have been different had he testified.
3. The appellate court reviews the post-conviction court's Strickland performance and prejudice rulings de novo while deferring to factual findings supported by competent, substantial evidence.

KEY QUOTATIONS

"A criminal defendant has the fundamental right to choose between remaining silent and testifying on his own behalf." (at 7)

"The presumption that this was within reasonable professional norms and sound trial strategy is a higher hurdle." (at 9)

"Mere legal conclusions and speculation are not enough to show prejudice." (at 13)

FACTUAL BACKGROUND

Scott was charged with and convicted of three offenses involving alleged sexual activity with his sixteen-year-old stepdaughter. At trial, counsel cross-examined the State's witnesses to attack inconsistencies and credibility. After several colloquies and recesses concerning Scott's right to testify, Scott confirmed that the decision not to testify was his. In post-conviction proceedings, Scott claimed counsel advised him not to testify and that his proposed testimony would have supplied the defense theory, but the trial court found portions of his testimony not credible and found that he failed to establish deficient performance.

PROCEDURAL HISTORY

Scott was convicted of three counts of sexual activity with a child by a person in familial or custodial authority and sentenced to fifty years in prison. The Third District affirmed the conviction and sentence on direct appeal. Scott later filed a Rule 3.850 motion alleging that counsel was ineffective for advising him not to testify; after the summary denial was reversed for an evidentiary hearing, the trial court held a hearing and denied relief. The Third District affirmed that denial.

DISPOSITION

affirmed

CASES CITED

- Buckley v. City of Miami Beach, 559 So. 2d 310, 313 n.1 (Fla. 3d DCA 1990)
- Scott v. State, 218 So. 3d 476, 481 (Fla. 3d DCA 2017)
- Scott v. State, 343 So. 3d 195, 195 (Fla. 3d DCA 2022)
- Strickland v. Washington, 466 U.S. 668, 687, 689, 693-94 (1984)
- Evans v. State, 975 So. 2d 1035, 1043 (Fla. 2008)
- Occhicone v. State, 768 So. 2d 1037, 1048 (Fla. 2000)
- Harris v. New York, 401 U.S. 222, 225 (1971)
- Lott v. State, 931 So. 2d 807, 819 (Fla. 2006)
- United States v. Teague, 953 F.2d 1525, 1534 (11th Cir. 1992)
- Oisorio v. State, 676 So. 2d 1363, 1365 (Fla. 1996)
- Maxwell v. Wainwright, 490 So. 2d 927, 932 (Fla. 1986)
- Sochor v. State, 883 So. 2d 766, 771 (Fla. 2004)
- Johnson v. State, 104 So. 3d 1010, 1022 (Fla. 2012)
- De Groot v. Sheffield, 95 So. 2d 912, 916 (Fla. 1957)
- Goldfarb v. Robertson, 82 So. 2d 504, 506 (Fla. 1955)
- Owen v. State, 986 So. 2d 534, 546 (Fla. 2008)
- Cherry v. State, 659 So. 2d 1069, 1073 (Fla. 1995)
- Rivera v. Dugger, 629 So. 2d 105, 107 (Fla. 1993)
- Tafolla v. State, 162 So. 3d 1073, 1073 (Fla. 4th DCA 2015)
- Loudermilk v. State, 106 So. 3d 959, 960 (Fla. 4th DCA 2013)
- Visger v. State, 953 So. 2d 741, 744 (Fla. 4th DCA 2007)
- McClenney v. State, 351 So. 3d 649, 652 (Fla. 3d DCA 2022)