

SUPREME COURT OF FLORIDA

Spencer v. State

842 So. 2d 52 (Fla. 2003) · No. Nos. SC00-1051, SC00-2588 · Decided January 9, 2003

SUMMARY

The Supreme Court of Florida reviews the denial of Dusty Ray Spencer’s motion for postconviction relief under Florida Rule of Criminal Procedure 3.850 and his petition for habeas corpus. The court rejects claims involving prosecutorial misconduct, ineffective assistance of trial and appellate counsel, Brady and Giglio violations, juror bias, and constitutional challenges to Florida’s death-penalty statute. It affirms the denial of postconviction relief and denies habeas relief.

CASE DETAILS

COURT	Supreme Court of Florida
WRITING FOR THE COURT	Per Curiam; Wells, C.J.; Lewis, J.; Quince, J.; Harding, Senior Justice; Anstead, C.J.; Pariente, J.; Shaw, Senior Justice
JURISDICTION	Florida
DECIDED	January 9, 2003
DOCKET	Nos. SC00-1051, SC00-2588
DISPOSITION	affirmed
PROCEDURAL POSTURE	Spencer appealed the denial of his amended motion for postconviction relief under Florida Rule of Criminal Procedure 3.850 and separately petitioned the Supreme Court of Florida for a writ of habeas corpus.
STANDARD OF REVIEW	The court reviewed the denial of postconviction relief, including summary denial of claims under Florida Rule of Criminal Procedure 3.850(d), and assessed ineffective-assistance claims under Strickland v. Washington. It reviewed constitutional and procedural claims for legal error and determined whether alleged errors were fundamental or harmless beyond a reasonable doubt where applicable.
PRECEDENTIAL VALUE	published precedential opinion
PARTIES	Dusty Ray Spencer v. State of Florida

TOPICS

- state post-conviction relief
- ineffective assistance
- habeas corpus
- sentencing
- appellate procedure

PRACTICE AREAS

state post-conviction relief

capital sentencing

criminal procedure

appellate procedure

habeas corpus

QUESTIONS PRESENTED

1. Whether Spencer's claims of prosecutorial misconduct were procedurally barred because they were or could have been raised at trial or on direct appeal.
2. Whether trial counsel rendered ineffective assistance during the guilt and penalty phases under *Strickland v. Washington*.
3. Whether the State violated *Brady v. Maryland* by failing to disclose the involvement of a reserve deputy sheriff.
4. Whether pretrial publicity, juror contacts, and alleged juror bias denied Spencer a fair trial or supported ineffective-assistance claims.
5. Whether the circuit court improperly summarily denied additional Rule 3.850 claims without an evidentiary hearing.
6. Whether the State committed Giglio violations by misstating evidence during opening or closing argument.
7. Whether Florida Bar Rule 4-3.5(d)(4) was unconstitutional or impaired Spencer's postconviction proceedings.
8. Whether cumulative trial errors warranted postconviction relief.
9. Whether Florida's capital-sentencing scheme was unconstitutional under *Apprendi v. New Jersey* and *Ring v. Arizona*.
10. Whether appellate counsel was ineffective for failing to raise prosecutorial-misconduct and other claims as fundamental error.

HOLDINGS

1. Claims based on matters appearing on the trial record that were or could have been litigated at trial and on direct appeal are procedurally barred in a collateral postconviction proceeding.
2. A defendant claiming ineffective assistance must prove both deficient performance and a reasonable probability that, absent the deficiency, the result would have been different; Spencer failed to establish either prong for the asserted guilt- and penalty-phase deficiencies.
3. Expert evidence of diminished capacity is inadmissible to establish lack of mens rea, and counsel was not ineffective for failing to present the proposed dissociative-state evidence during the guilt phase.
4. No Brady violation occurred because the reserve deputy's identity was disclosed and the deputy did not possess favorable, suppressed evidence.
5. A Rule 3.850 claim may be summarily denied when the motion, files, and records conclusively show that the movant is entitled to no relief; the court must state its rationale or attach the record portions refuting the claim.

6. The prosecutor's challenged opening and closing arguments did not establish Giglio violations because the record did not show knowingly false material statements and the challenged arguments either had evidentiary support or accurately characterized the evidence.
7. Spencer was not entitled to relief under Apprendi or Ring, and the prior remand did not require impaneling a new jury because this Court expressly remanded for reconsideration and reweighing by the judge.
8. Appellate counsel was not ineffective for failing to raise meritless, unpreserved, previously rejected, or nonfundamental claims; any prosecutorial comment concerning Spencer's unsworn statements was harmless beyond a reasonable doubt.

KEY QUOTATIONS

"Issues which either were or could have been litigated at trial and upon direct appeal are not cognizable through collateral attack." (61)

"In order to prevail on a claim of ineffective assistance of trial counsel, a defendant must demonstrate that (1) counsel's performance was deficient and (2) there is a reasonable probability that the outcome of the proceeding would have been different." (61)

"We continue to adhere to the rule that expert evidence of diminished capacity is inadmissible on the issue of mens rea." (63)

"A defendant is prejudiced by the suppression of exculpatory evidence if it is material, in other words if "there is a 'reasonable probability' that the result of the trial would have been different if the suppressed documents had been disclosed to the defense."" (68)

"We conclude that any error in the comment by the prosecutor in the instant case was harmless beyond a reasonable doubt." (76)

FACTUAL BACKGROUND

Spencer was convicted of attacking his wife, Karen Spencer, and stepson, Timothy Johnson, during two incidents; Karen was killed during the second attack. The jury recommended death by a seven-to-five vote. On resentencing, the trial judge found prior violent felony and heinous, atrocious, or cruel aggravating circumstances, gave some weight to statutory mental mitigators and little weight to nonstatutory mitigation, and again imposed death.

PROCEDURAL HISTORY

Spencer was convicted of first-degree murder and related offenses and sentenced to death. The Supreme Court of Florida affirmed the convictions but vacated the original death sentence and remanded for reconsideration by the judge; after resentencing, it affirmed the death sentence, and the United States Supreme Court denied certiorari. Spencer then filed an amended Rule 3.850 motion, the circuit court conducted a Huff hearing and a limited evidentiary hearing, and denied relief in a comprehensive order. The Supreme Court of Florida affirmed that denial and denied habeas relief.

DISPOSITION

affirmed

CASES CITED

- Spencer v. State, 645 So. 2d 377, 379-85 (Fla. 1994)
- Spencer v. State, 691 So. 2d 1062, 1063-64 (Fla. 1996)
- Smith v. State, 445 So. 2d 323, 325 (Fla. 1983)
- Strickland v. Washington, 466 U.S. 668 (1984)
- Rivera v. Dugger, 629 So. 2d 105, 107 (Fla. 1993)
- Cherry v. State, 659 So. 2d 1069, 1072 (Fla. 1995)
- Valle v. State, 705 So. 2d 1331, 1333 (Fla. 1997)
- Valle v. State, 778 So. 2d 960, 965 (Fla. 2000)
- Shere v. State, 742 So. 2d 215, 220 (Fla. 1999)
- Dillbeck v. State, 643 So. 2d 1027, 1029 (Fla. 1994)
- Bunney v. State, 603 So. 2d 1270 (Fla. 1992)
- Gurganus v. State, 451 So. 2d 817, 822-23 (Fla. 1984)
- State v. Bias, 653 So. 2d 380, 382-83 (Fla. 1995)
- Sullivan v. State, 303 So. 2d 632, 635 (Fla. 1974)
- Lusk v. State, 446 So. 2d 1038, 1041 (Fla. 1984)
- Brady v. Maryland, 373 U.S. 83 (1963)
- Strickler v. Greene, 527 U.S. 263, 281-82, 289 (1999)
- Way v. State, 760 So. 2d 903, 910 (Fla. 2000)
- Thompson v. State, 759 So. 2d 650, 662 (Fla. 2000)
- Castro v. State, 644 So. 2d 987, 990 (Fla. 1994)
- Bundy v. State, 471 So. 2d 9, 19 (Fla. 1985)
- Henyard v. State, 689 So. 2d 239, 245 (Fla. 1996)
- Teffetteller v. Dugger, 734 So. 2d 1009, 1020, 1027 (Fla. 1999)
- Rivers v. State, 458 So. 2d 762, 765 (Fla. 1984)
- Strausser v. State, 682 So. 2d 539, 541 (Fla. 1996)
- Giglio v. United States, 405 U.S. 150, 153-54 (1972)
- Routly v. State, 590 So. 2d 397, 400 (Fla. 1991)
- Bottoson v. Moore, 833 So. 2d 693 (Fla. 2002)
- Engle v. Dugger, 576 So. 2d 696, 703 (Fla. 1991)
- Ferguson v. Singletary, 632 So. 2d 53, 58 (Fla. 1993)
- Medina v. Dugger, 586 So. 2d 317, 318 (Fla. 1991)
- Roberts v. State, 568 So. 2d 1255, 1261 (Fla. 1990)

- Kilgore v. State, 688 So. 2d 895, 898 (Fla. 1996)
- Brooks v. State, 762 So. 2d 879, 898, 905 (Fla. 2000)
- Young v. State, 739 So. 2d 553, 555 n. 5 (Fla. 1999)
- Lambrix v. State, 698 So. 2d 247, 248 (Fla. 1996)
- State v. Delva, 575 So. 2d 643, 645 (Fla. 1991)
- Brown v. State, 124 So. 2d 481, 484 (Fla. 1960)
- State v. Marshall, 476 So. 2d 150, 153 (Fla. 1985)
- Heath v. State, 648 So. 2d 660, 663 (Fla. 1994)
- Rodriguez v. State, 753 So. 2d 29, 39 (Fla. 2000)

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