

FIFTH DISTRICT COURT OF APPEAL OF THE STATE OF FLORIDA

Christopher Owens v. State of Florida

Case No. 5D2025-1866 · No. 5D2025-1866 · Decided April 22, 2026

SUMMARY

The Fifth District Court of Appeal of Florida reverses the summary denial of Christopher Owens’s Rule 3.850 claim alleging ineffective assistance of counsel for failing to object to prosecutorial comments during voir dire concerning his right to remain silent. The court holds that the records attached to the postconviction court’s order do not conclusively refute prejudice under Strickland and remands for an evidentiary hearing or attachment of additional records. Judge Lambert concurs separately, distinguishing the prosecutor’s comments from permissible comments in Grieve and Rosa.

CASE DETAILS

COURT	Fifth District Court of Appeal of the State of Florida
WRITING FOR THE COURT	Per Curiam; Soud, J.; Kilbane, J.; Lambert, J.
JURISDICTION	Florida Fifth District Court of Appeal
DECIDED	April 22, 2026
DOCKET	5D2025-1866
DISPOSITION	reversed_and_remanded
PROCEDURAL POSTURE	Appeal from the summary denial of ground four of an amended Florida Rule of Criminal Procedure 3.850 motion for postconviction relief.
STANDARD OF REVIEW	De novo review of the postconviction court's summary denial of a Rule 3.850 motion.
PRECEDENTIAL VALUE	Published intermediate appellate opinion
PARTIES	Christopher Owens v. State of Florida

TOPICS

- state post-conviction relief
- ineffective assistance
- fifth amendment
- appellate procedure
- criminal procedure

PRACTICE AREAS

- Florida postconviction relief
- criminal procedure
- ineffective assistance of counsel
- appellate procedure

QUESTIONS PRESENTED

1. Whether the records attached to the postconviction court's second summary denial conclusively refuted Owens's claim that counsel's failure to object to the prosecutor's voir dire comments prejudiced him under Strickland.
2. Whether the postconviction court properly summarily denied ground four without conducting an evidentiary hearing.

HOLDINGS

1. The attached records did not conclusively refute Owens's claim of prejudice from counsel's failure to object to the prosecutor's repeated comments concerning his right to remain silent, because the records lacked sufficient context to permit the required Strickland prejudice analysis.
2. When no evidentiary hearing is held, the appellate court must accept the defendant's factual allegations to the extent they are not refuted by the record.

KEY QUOTATIONS

"We conclude that the additional attached records still provide insufficient context to allow us to conduct the prejudice analysis required under Strickland and thus have not conclusively refuted the claim." (8)

"REVERSED and REMANDED for additional proceedings consistent with this opinion." (9)

FACTUAL BACKGROUND

Owens alleged that trial counsel rendered ineffective assistance by failing to object to repeated prosecutorial comments during voir dire concerning Owens's Fifth Amendment right not to testify. The prosecutor discussed various reasons a defendant might remain silent, including avoiding cross-examination and acting on advice of counsel. Although the postconviction court attached additional voir dire and jury-instruction transcripts on remand, those records did not include the trial evidence, any preliminary instruction on the right to remain silent, or the full scope of defense counsel's voir dire.

PROCEDURAL HISTORY

Owens was convicted by a jury of sexual battery and battery and received a fifteen-year prison sentence on the sexual-battery conviction. After the postconviction court summarily denied all grounds of his amended Rule 3.850 motion, the Fifth District affirmed the denial of all grounds except ground four, reversed as to that ground, and remanded for additional records or an evidentiary hearing. On remand, the postconviction court again summarily denied ground four, leading to this appeal.

DISPOSITION

reversed_and_remanded

REMAND INSTRUCTIONS

The postconviction court must either conduct an evidentiary hearing on ground four or attach additional records to its denial order that conclusively demonstrate Owens is entitled to no relief.

CASES CITED

- Owens v. State, 408 So. 3d 870, 872–77 (Fla. 5th DCA 2025)
- Strickland v. Washington, 466 U.S. 668, 694 (1984)
- Owens v. State, 282 So. 3d 108 (Fla. 5th DCA 2019)
- Grieve v. State, 731 So. 2d 84, 84 (Fla. 4th DCA 1999)
- United States v. Young, 470 U.S. 1, 11 (1985)
- Peede v. State, Peede v. State, 748 So. 2d 253, 257 (Fla. 1999)
- Lighbourne v. Dugger, 549 So. 2d 1364, 1365 (Fla. 1989)
- State v. Coney, 845 So. 2d 120, 137 (Fla. 2003)
- Marston v. State, 136 So. 3d 563, 565–72 (Fla. 2014)
- State v. DiGuilio, 491 So. 2d 1129, 1135–37 (Fla. 1986)
- Rodriguez v. State, 753 So. 2d 29, 37 (Fla. 2000)
- Cox v. State, 966 So. 2d 337, 347 (Fla. 2007)
- Jennings v. State, 123 So. 3d 1101, 1121 (Fla. 2013)
- Rosa v. State, 696 So. 2d 1299, 1300–01 (Fla. 3d DCA 1997)

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