

SUPREME COURT OF MISSOURI

Creighton v. State

520 S.W.3d 416 (Mo. banc 2017) · Decided April 25, 2017

SUMMARY

The Missouri Supreme Court held that a motion court's notification to the public defender of a pro se Rule 29.15 motion was not an appointment of counsel triggering the amended-motion deadlines. The court upheld denial of the ineffective-assistance claim concerning alleged juror nondisclosure but held that the movant's pro se claims were improperly denied as illegible. The judgment was reversed in part and remanded for consideration of those claims, and affirmed in all other respects.

CASE DETAILS

COURT	Supreme Court of Missouri
WRITING FOR THE COURT	George W. Draper III; Breckenridge, C.J.; Fischer; Stith; Wilson; Russell
JURISDICTION	Missouri
DECIDED	April 25, 2017
DISPOSITION	reversed_and_remanded
PROCEDURAL POSTURE	Movant appealed from a judgment overruling his Rule 29.15 motion for post-conviction relief without an evidentiary hearing.
STANDARD OF REVIEW	The Supreme Court reviews a judgment denying a Rule 29.15 motion to determine whether the motion court's findings of fact and conclusions of law are clearly erroneous. Findings and conclusions are clearly erroneous only when a full review of the record leaves the reviewing court with the definite and firm impression that a mistake has been made.
PRECEDENTIAL VALUE	Published opinion; precedential Missouri Supreme Court decision.
PARTIES	Rodney Creighton v. State of Missouri

TOPICS

state post-conviction relief post-conviction relief ineffective assistance appellate procedure
standard of review

PRACTICE AREAS

post-conviction relief

criminal procedure

appellate procedure

QUESTIONS PRESENTED

1. Whether the motion court's memorandum notifying the public defender of Creighton's pro se Rule 29.15 filing constituted an appointment of counsel that triggered the amended-motion filing deadline.
2. Whether trial counsel was ineffective for failing to seek a mistrial or removal of a juror for intentional nondisclosure.
3. Whether the motion court clearly erred by denying Creighton's pro se post-conviction claims on the ground that they were illegible.

HOLDINGS

1. A motion court's memorandum notifying the public defender that an indigent movant filed a pro se post-conviction motion is not an appointment of counsel when the memorandum does not appoint counsel and the surrounding circumstances show no intent to make an appointment.
2. The motion court did not clearly err in denying relief without an evidentiary hearing on the claim that counsel was ineffective for failing to seek a mistrial or removal of a juror for intentional nondisclosure.
3. The motion court clearly erred by denying Creighton's pro se post-conviction claims on the ground that they were illegible; the case must be remanded for consideration of those claims on their merits.

KEY QUOTATIONS

"The motion court's memorandum did not state that the court was appointing the public defender to represent Movant." (520 S.W.3d at 419)

"The memorandum was not an appointment triggering the Rule 29.15(g) filing deadlines." (520 S.W.3d at 421)

"Intentional nondisclosure occurs when: 1) there is no reasonable inability to comprehend the information solicited by the question asked of the prospective juror, and 2) the prospective juror remembers the experience or that it was of such significance that the juror's purported forgetfulness is unreasonable." (520 S.W.3d at 422)

"The motion court clearly erred in denying relief on Movant's pro se claims based on a finding of illegibility." (520 S.W.3d at 423)

FACTUAL BACKGROUND

Following a jury trial, Creighton was convicted of three first-degree robberies, three counts of armed criminal action, and resisting arrest, receiving concurrent terms of twenty-five, ten, and seven years respectively. During voir dire, no prospective juror responded that she knew Creighton. After trial, one juror said Creighton's face looked familiar but could not identify him, identify where she had seen him, or explain any bias or impediment to a fair trial. Creighton's post-conviction filings also included pro se claims that the motion court rejected as illegible.

PROCEDURAL HISTORY

After a jury convicted Creighton of three counts of first-degree robbery, three counts of armed criminal action, and resisting arrest, the circuit court imposed concurrent sentences. The convictions and sentences were affirmed on direct appeal. Creighton then filed a timely pro se Rule 29.15 motion, counsel entered an appearance, and an amended motion was filed. The motion court denied post-conviction relief without an evidentiary hearing, including on claims that counsel failed to challenge a juror's alleged nondisclosure and that the pro se claims were illegible.

DISPOSITION

reversed_and_remanded

REMAND INSTRUCTIONS

The case was remanded for consideration of the merits of Creighton's pro se claims. The judgment was affirmed in all other respects, including denial of the juror-nondisclosure ineffective-assistance claim.

CASES CITED

- State v. Creighton, 386 S.W.3d 206 (Mo. App. E.D. 2012)
- Moore v. State, 458 S.W.3d 822 (Mo. banc 2015)
- Williams v. State, 168 S.W.3d 433 (Mo. banc 2005)
- Stanley v. State, 420 S.W.3d 532 (Mo. banc 2014)
- State v. White, 813 S.W.2d 862, 864 (Mo. banc 1991)
- State v. Leisure, 810 S.W.2d 560, 575 (Mo. App. E.D. 1991)
- Laub v. State, 481 S.W.3d 579, 584 (Mo. App. S.D. 2015)
- State ex rel. Missouri Public Defender Commission v. Waters, 370 S.W.3d 592 (Mo. banc 2012)
- State ex rel. Missouri Public Defender Commission v. Pratte, 298 S.W.3d 870, 890 (Mo. banc 2009)
- Johnson v. State, 491 S.W.3d 310, 313 (Mo. App. E.D. 2016)
- Bennett v. State, 88 S.W.3d 448, 449 (Mo. banc 2002)
- Hoeber v. State, 488 S.W.3d 648, 655 (Mo. banc 2016)
- Dorsey v. State, 448 S.W.3d 276, 286-287 (Mo. banc 2014)
- State v. McFadden, 391 S.W.3d 408, 418 (Mo. banc 2013)
- Webb v. State, 334 S.W.3d 126, 128 (Mo. banc 2011)
- Green v. State, 494 S.W.3d 525, 528-529 (Mo. banc 2016)
- Green v. State, 494 S.W.3d 525, 532-533 (Mo. banc 2016)