

SUPREME COURT OF FLORIDA

Ibar v. State

190 So. 3d 1012 (Fla. 2016) · No. Nos. SC12-522 and SC12-2619 · Decided February 4, 2016

SUMMARY

The Supreme Court of Florida held that Pablo Ibar received ineffective assistance of counsel in his capital murder trial. The court concluded that trial counsel was deficient for failing to present facial-identification expert testimony challenging the reliability of the surveillance video and related identifications, found prejudice, reversed the denial of post-conviction relief, and remanded for a new trial.

CASE DETAILS

COURT	Supreme Court of Florida
WRITING FOR THE COURT	Per Curiam; Labarga, C.J.; Pariente, J.; Polston, J.; Perry, J.; Quince, J.; Canady, J.; Lewis, J.
JURISDICTION	Florida
DECIDED	February 4, 2016
DOCKET	Nos. SC12-522 and SC12-2619
DISPOSITION	reversed_and_remanded
PROCEDURAL POSTURE	Ibar appealed the circuit court's denial of his Florida Rule of Criminal Procedure 3.851 motion to vacate his first-degree murder convictions and death sentences and separately petitioned the Supreme Court of Florida for a writ of habeas corpus.
STANDARD OF REVIEW	The Supreme Court deferred to postconviction court factual findings supported by competent, substantial evidence and reviewed legal conclusions de novo. Deficiency and prejudice under Strickland were treated as mixed questions of law and fact and reviewed de novo.
PRECEDENTIAL VALUE	Published opinion; binding Florida Supreme Court precedent on the issues decided.
PARTIES	Pablo Ibar v. State of Florida

TOPICS

- ineffective assistance
- state post-conviction relief
- post-conviction relief
- criminal procedure
- habeas corpus

PRACTICE AREAS

criminal law

post-conviction relief

capital litigation

constitutional law

appellate procedure

QUESTIONS PRESENTED

1. Whether trial counsel provided ineffective assistance by failing to present a facial-identification expert or forensic anthropologist to challenge the State's identification of Ibar from the surveillance videotape.
2. Whether Ibar established prejudice under Strickland based on the importance of the videotape identification, the lack of physical evidence, and the errors identified on direct appeal.
3. Whether Ibar was entitled to relief on his remaining postconviction and habeas claims.

HOLDINGS

1. Trial counsel performed deficiently by completely failing to present a facial-identification expert or forensic anthropologist to challenge the State's central videotape-based identification of Ibar.
2. Ibar established a reasonable probability sufficient to undermine confidence in the outcome because an expert could have substantially challenged the videotape identification in a case lacking physical evidence and containing previously recognized identification errors.

KEY QUOTATIONS

"As this record bears out, there was simply no excuse for the numerous deficiencies and failures of Ibar's defense attorney." (190 So. 3d at 1015)

"Simply put, we cannot and do not have confidence in the outcome of this trial." (190 So. 3d at 1015)

"After carefully reviewing the record, we conclude that trial counsel Morgan was deficient for failing to present a facial identification expert to challenge the State's charge that Ibar was the perpetrator seen in the videotape committing the murders at the Sucharski residence." (190 So. 3d at 1021)

FACTUAL BACKGROUND

The State's case depended heavily on a grainy surveillance videotape depicting three murders and on identifying Ibar as one of the perpetrators. Ibar had no confession or physical evidence linking him to the murders, and DNA, hair, and cellular material recovered from a blue shirt at the crime scene were not consistent with him. Although Ibar's counsel knew that a facial-identification or forensic-anthropology expert was critical to challenge the videotape identification, counsel failed to present such an expert despite Ibar's request and counsel's prior agreement.

PROCEDURAL HISTORY

Ibar and Seth Penalver were initially tried together, resulting in a hung jury. Ibar was later tried separately, convicted of three counts of first-degree murder and related offenses, and sentenced to death. The Supreme Court of Florida affirmed on direct appeal, but later reversed the denial of postconviction relief because trial counsel was ineffective for failing to present a facial-identification expert and remanded for a new trial.

DISPOSITION

reversed_and_remanded

REMAND INSTRUCTIONS

Reverse the denial of postconviction relief, vacate Ibar's first-degree murder convictions and death sentences, and conduct a new trial.

CASES CITED

- Strickland v. Washington, 466 U.S. 668 (1984)
- Bradley v. State, 33 So. 3d 664, 671-72 (Fla. 2010)
- Michel v. Louisiana, 350 U.S. 91, 101 (1955)
- Occhicone v. State, 768 So. 2d 1037, 1048 (Fla. 2000)
- Cox v. State, 966 So. 2d 337, 357-58 (Fla. 2007)
- Frances v. State, 143 So. 3d 340, 349 (Fla. 2014)
- Penalver v. State, 926 So. 2d 1118, 1125-26, 1137-38 (Fla. 2006)
- Ibar v. State, 938 So. 2d 451, 457-58, 463 (Fla. 2006)
- Harris v. Dugger, 874 F.2d 756, 761 n.4 (11th Cir. 1989)
- Porter v. McCollum, 558 U.S. 30, 44 (2009)
- Wheeler v. State, 124 So. 3d 865, 873 (Fla. 2013)
- Jennings v. State, 123 So. 3d 1101, 1113 (Fla. 2013)
- Alcorn v. State, 121 So. 3d 419, 425 (Fla. 2013)
- Gore v. State, 964 So. 2d 1257, 1269 (Fla. 2007)
- Ring v. Arizona, 536 U.S. 584 (2002)
- Hurst v. Florida, 136 S. Ct. 616 (2016)