

MISSOURI COURT OF APPEALS

Carruthers v. State

603 S.W.2d 93 (Mo. App. 1980) · Decided August 4, 1980

SUMMARY

The Missouri appellate court affirmed the denial of the defendant’s pro se Rule 27.26 motion to vacate his robbery conviction and sentence. The court held that the plea-hearing record conclusively refuted his claim that narcotics rendered his guilty plea involuntary and that, under the law applicable when the motion was filed and decided, the trial court was not required to appoint counsel or hold an evidentiary hearing.

CASE DETAILS

COURT	Missouri Court of Appeals
WRITING FOR THE COURT	Swofford, Judge; Ard; Kennedy; Pritch; Swofford
JURISDICTION	Missouri
DECIDED	August 4, 1980
DISPOSITION	affirmed
PROCEDURAL POSTURE	Carruthers appealed the denial and dismissal of his pro se Missouri Rule 27.26 motion seeking to vacate his conviction and sentence. He argued that the motion court erred by denying relief without an evidentiary hearing and by failing to appoint counsel.
STANDARD OF REVIEW	The appellate court reviewed whether the motion court erred in denying post-conviction relief without a hearing or appointment of counsel under the Rule 27.26 law applicable when the proceeding occurred.
PRECEDENTIAL VALUE	Published Missouri Court of Appeals opinion; precedential under the law applicable at the time of decision.
PARTIES	Carruthers v. State

TOPICS

- state post-conviction relief
- post-conviction relief
- right to counsel
- criminal procedure
- appellate procedure

PRACTICE AREAS

QUESTIONS PRESENTED

1. Whether the motion court was required to conduct an evidentiary hearing on Carruthers's Rule 27.26 claims.
2. Whether the motion court was required to appoint counsel for Carruthers in the pro se Rule 27.26 proceeding.
3. Whether Carruthers could obtain relief from his sentence based on the allegedly more lenient sentence imposed on a codefendant.

HOLDINGS

1. No evidentiary hearing was required because the applicable version of Rule 27.26 permitted denial without a hearing when the factual allegations were refuted by facts elicited at the guilty-plea hearing, and Carruthers's plea-record statements directly refuted his later claim that he was incapable of making a knowing and voluntary decision.
2. The motion court did not err by failing to appoint counsel because, under the law applicable when the proceeding occurred, counsel was not required when no evidentiary hearing was necessary. *Fields v. State*, decided after the proceeding and expressly made prospective, did not apply retroactively.
3. No. A sentence imposed after a thorough hearing and presentence investigation, and within the statutory punishment range, could not be vacated through a Rule 27.26 motion merely because a participant in a separate proceeding received a lesser sentence.

KEY QUOTATIONS

“The sentence here sought to be vacated could not and will not be corrupted by comparison to a sentence meted out to his “co-defendant” in another distinct, separate and independent proceeding, by use of the vehicle of a Rule 27.26 motion.” (603 S.W.2d at 95)

“These belated claims are positively refuted by the record, and although carefully noted, the authorities cited by the defendant do not persuade this Court that Judge Martin erred in denying an evidentiary hearing upon that ground and under the then state of the law.” (603 S.W.2d at 96)

FACTUAL BACKGROUND

Carruthers pleaded guilty to first-degree robbery on June 24, 1974, while represented by counsel, and was sentenced to ten years. During the plea colloquy, he stated that he was not under the influence of drugs or alcohol, understood the proceeding and the sentencing range, and desired to plead guilty. In a Rule 27.26 motion filed more than four years later, he alleged that a codefendant received a lesser sentence and that narcotics impaired his ability to enter a knowing and voluntary plea.

PROCEDURAL HISTORY

Carruthers pleaded guilty to first-degree robbery and received a ten-year sentence in 1974. More than four years later, he filed a pro se Rule 27.26 motion alleging disparate sentencing from a codefendant and claiming that narcotics rendered his guilty plea involuntary. The motion court denied and dismissed the motion without appointing counsel or conducting an evidentiary hearing, and Carruthers appealed in forma pauperis.

DISPOSITION

affirmed

CASES CITED

- Fields v. State, 572 S.W.2d 477 (Mo. banc 1978)
- Smith v. State, 513 S.W.2d 407, 411[1] (Mo. banc 1974), cert. denied, 420 U.S. 911, 95 S.Ct. 832, 42 L.Ed.2d 841
- Flood v. State, 476 S.W.2d 529, 535-537 (Mo. 1972)
- Winston v. State, 533 S.W.2d 709, 715[6] (Mo. App. 1976)