

SUPREME COURT OF ARKANSAS

Ward v. Hutchinson

558 S.W.3d 856 (Ark. 2018) · Decided November 1, 2018

SUMMARY

The Arkansas Supreme Court reviewed the dismissal of Bruce Earl Ward's complaint challenging Arkansas Code Annotated section 16-90-506(d)(1), which governs competency determinations for individuals sentenced to death. The court held that the statute was facially unconstitutional because it provided no procedure for a condemned inmate to make a threshold showing of incompetency or obtain an evidentiary hearing consistent with *Ford v. Wainwright* and *Panetti v. Quarterman*. The court reversed and remanded, overruling *Singleton v. Endell* to the extent it conflicted with this holding.

CASE DETAILS

COURT	Supreme Court of Arkansas
WRITING FOR THE COURT	John Dan Kemp, Chief Justice; Hart, Justice; Baker, Justice; Wood, Justice; Womack, Justice; Goodson, Justice; Wynne, Justice
JURISDICTION	Arkansas
DECIDED	November 1, 2018
DISPOSITION	reversed_and_remanded
PROCEDURAL POSTURE	Appeal from an order of the Jefferson County Circuit Court denying a motion for preliminary injunction and dismissing Ward's complaint under Arkansas Rule of Civil Procedure 12(b)(6).
STANDARD OF REVIEW	The statute was presumed constitutional, and Ward bore the burden of proving otherwise; the court reviewed the dismissal and the facial constitutional challenge presented by the complaint. The court stated that statutes should not be invalidated unless their conflict with the Constitution is clear and unmistakable.
PRECEDENTIAL VALUE	Published Arkansas Supreme Court opinion; binding Arkansas precedent, subject to the partial overruling and separate opinions described above.
PARTIES	Bruce Earl Ward v. Asa Hutchinson, Governor of Arkansas, Wendy Kelley, Director of the Arkansas Department of Correction, Randy Watson, Warden of Varner Supermax Unit, Benny Magness, Chairperson of the Arkansas Board of Corrections

TOPICS

competency to be executed procedural due process cruel and unusual punishment post-conviction relief
civil procedure

PRACTICE AREAS

constitutional law capital punishment post-conviction relief civil procedure

QUESTIONS PRESENTED

1. Whether Ward had standing to challenge the constitutionality of Arkansas Code Annotated section 16-90-506(d)(1) even though the Director had not made a competency determination concerning him.
2. Whether Ward's due-process and separation-of-powers arguments were preserved for appellate review despite the circuit court's failure to expressly rule on the constitutional issues and Ward's failure to challenge every stated ground for dismissal.
3. Whether Arkansas Code Annotated section 16-90-506(d)(1) is facially unconstitutional because it does not provide a death-row prisoner an opportunity to make a substantial threshold showing of incompetence or an evidentiary hearing satisfying *Ford v. Wainwright* and *Panetti v. Quarterman*.

HOLDINGS

1. Ward had standing to challenge the constitutionality of section 16-90-506(d)(1) because his death sentence and execution warrant gave him a personal stake in the controversy.
2. Ward's due-process and separation-of-powers arguments were preserved for appellate review, and the circuit court's immunity and exhaustion rulings applied only to separate civil-rights allegations and did not independently dispose of the constitutional claims.
3. Arkansas Code Annotated section 16-90-506(d)(1) is facially unconstitutional because it does not provide a death-row prisoner an opportunity to make a substantial threshold showing of incompetence to trigger a hearing or an evidentiary hearing satisfying the requirements of due process under *Ford* and *Panetti*.

KEY QUOTATIONS

"Simply put, section 16-90-506(d)(1)(A) is devoid of any procedure by which a death-row inmate has an opportunity to make an initial "substantial threshold showing of insanity ... to trigger the hearing process" pursuant to Ford, 477 U.S. at 426, 106 S.Ct. 2595." (at 865)

"Nor does the language of section 16-90-506(d)(1)(A) provide for an evidentiary hearing that comports with the fundamental principles of due process, as articulated in Ford and Panetti." (at 865)

"Therefore, we hold that section 16-90-501(d)(1) is unconstitutional on its face and violates the due-process guarantees of the United States and Arkansas Constitutions." (at 865)

FACTUAL BACKGROUND

Ward was convicted of capital murder in 1990 and received a death sentence, which was affirmed after multiple appeals. Governor Asa Hutchinson issued an execution warrant scheduling Ward's execution for April 17, 2017. Ward challenged the statutory competency-for-execution procedure, submitted psychological evaluations and affidavits, and sought a hearing on his competence, but the circuit court dismissed his complaint without conducting an evidentiary hearing.

PROCEDURAL HISTORY

Ward, a death-row prisoner, filed a complaint seeking injunctive and declaratory relief and challenging Arkansas Code Annotated section 16-90-506(d)(1), which governs competency-for-execution determinations. The circuit court denied his motion for a preliminary injunction and dismissed the complaint based on immunity, failure to exhaust administrative remedies, and failure to state a claim. The Arkansas Supreme Court granted an emergency stay of execution and reversed the dismissal, remanding for further proceedings.

DISPOSITION

reversed_and_remanded

REMAND INSTRUCTIONS

Remanded to the Jefferson County Circuit Court for further proceedings consistent with the opinion.

CASES CITED

- Ward v. State, 338 Ark. 619, 1 S.W.3d 1 (1999)
- Ward v. State, 321 Ark. 659, 906 S.W.2d 685 (1995) (per curiam)
- Ward v. State, 308 Ark. 415, 827 S.W.2d 110 (1992)
- Morrison v. Jennings, 328 Ark. 278, 943 S.W.2d 559 (1997)
- Tauber v. State, 324 Ark. 47, 919 S.W.2d 196 (1996)
- Garrigus v. State, 321 Ark. 222, 901 S.W.2d 12 (1995)
- Jackson v. State, 334 Ark. 406, 976 S.W.2d 370 (1998)
- Coleman v. Regions Bank, 364 Ark. 59, 216 S.W.3d 569 (2005)
- Pugh v. State, 351 Ark. 5, 89 S.W.3d 909 (2002)
- Pearrow v. Feagin, 300 Ark. 274, 778 S.W.2d 941 (1989)
- Kellar v. Fayetteville Police Department, 339 Ark. 274, 5 S.W.3d 402 (1999)
- Laymon v. State, 2015 Ark. 485, 478 S.W.3d 203 (2015)
- Martin v. Kohls, 2014 Ark. 427, 444 S.W.3d 844 (2014)
- United States v. Salerno, 481 U.S. 739, 745, 107 S. Ct. 2095, 95 L. Ed. 2d 697 (1987)
- Ford v. Wainwright, 477 U.S. 399, 106 S. Ct. 2595, 91 L. Ed. 2d 335 (1986)
- Panetti v. Quarterman, 551 U.S. 930, 127 S. Ct. 2842, 168 L. Ed. 2d 662 (2007)
- Cole v. Roper, 783 F.3d 707 (8th Cir. 2015)
- Singleton v. Endell, 316 Ark. 133, 870 S.W.2d 742 (1994)

- *Cummings v. City of Fayetteville*, 294 Ark. 151, 741 S.W.2d 638 (1987)
- *Ward v. State*, 2015 Ark. 62, 455 S.W.3d 830 (2015)
- *Ward v. State*, 2018 Ark. 59, 539 S.W.3d 546 (2018)
- *Nooner v. State*, 2014 Ark. 296, 438 S.W.3d 233 (2014)
- *Greene v. Kelley*, 2018 Ark. 316

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