

SUPREME COURT OF ALABAMA

Ex parte Dobyne

805 So. 2d 763 (Ala. 2001) · No. 1992261 · Decided June 15, 2001

SUMMARY

The Supreme Court of Alabama reviewed Willie Dobyne's Rule 32 post-conviction claims arising from his death-penalty conviction. The court held that plain-error review did not apply to a certiorari petition from a post-conviction proceeding, clarified the applicable standard for juror-misconduct claims, and upheld the denial of relief. The court also addressed Dobyne's ineffective-assistance-of-counsel claims.

CASE DETAILS

COURT	Supreme Court of Alabama
WRITING FOR THE COURT	Harwood, Justice; Houston, C.J.; See, J.; Lyons, J.; Brown, J.; Johnstone, J.; Woodall, J.; Stuart, J.; Harwood, J.; Moore, C.J.
JURISDICTION	Alabama
DECIDED	June 15, 2001
DOCKET	1992261
DISPOSITION	affirmed
PROCEDURAL POSTURE	Petition for certiorari review of the Alabama Court of Criminal Appeals' judgment affirming the denial of Dobyne's Rule 32 postconviction petition in a death-penalty case.
STANDARD OF REVIEW	Certiorari review under Rule 39(c), Ala. R. App. P.; plain-error review does not apply to a certiorari petition arising from an appeal from the denial of Rule 32 postconviction relief. A trial court's determination of probable prejudice from a juror's failure to answer voir dire questions is reviewed for abuse of discretion.
PRECEDENTIAL VALUE	published precedential opinion
PARTIES	Willie C. Dobyne v. State

TOPICS

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

PRACTICE AREAS

criminal procedure

state post-conviction relief

ineffective assistance of counsel

jury misconduct

appellate procedure

QUESTIONS PRESENTED

1. Whether plain-error review applies to a certiorari petition arising from an appeal from the denial of a Rule 32 postconviction petition in a death-penalty case.
2. Whether Dobyne's juror-misconduct claim was improperly treated as subject to the newly discovered evidence requirements of Rule 32.1(e).
3. What standard governs whether a juror's failure to answer a voir dire question warrants a new trial or postconviction relief.
4. Whether Dobyne established prejudice from the foreperson's alleged nondisclosure during voir dire.
5. Whether Dobyne's ineffective-assistance claims were precluded because the underlying issues had been raised or addressed on direct appeal, or because he failed to establish prejudice under Strickland.

HOLDINGS

1. Plain-error review under Rule 39(a)(2), Ala. R. App. P., applies only to a certiorari petition arising from the direct appeal of a death sentence, not to a petition reviewing the denial of a Rule 32 postconviction petition.
2. A juror-misconduct claim alleging a constitutional violation may be brought under Rule 32.1(a) and need not satisfy the newly discovered material facts requirements of Rule 32.1(e), although the claim remains subject to the procedural bars in Rule 32.2.
3. A juror's failure to answer a voir dire question warrants a new trial or reversal when the defendant might have been prejudiced, rather than only when actual prejudice is shown.
4. Dobyne was not entitled to postconviction relief because he failed to present evidence that a truthful answer by the foreperson would have caused the defense to challenge her for cause or exercise a peremptory strike.
5. Dobyne's ineffective-assistance claims did not warrant relief because claims raised or addressed on direct appeal were precluded by Rule 32.2(a)(4), and Dobyne failed to establish that additional venue evidence or further investigation of his statement would have changed the outcome.

KEY QUOTATIONS

"The plain-error standard of review does not apply in this case." (767)

"The proper standard for determining whether juror misconduct warrants a new trial, as set out by this Court's precedent, is whether the misconduct might have prejudiced, not whether it actually did prejudice, the defendant." (771)

"The judgment of the Court of Criminal Appeals, affirming the trial court's order denying Dobyne's postconviction petition alleging juror misconduct, ineffective assistance of counsel, and other things is due to

| *be affirmed.*” (776)

FACTUAL BACKGROUND

During Dobyne's capital trial, the jury foreperson had previously participated in educational evaluations involving Dobyne but testified at the Rule 32 hearing that she had no personal recollection of him during voir dire. Trial counsel knew the foreperson's occupation and had information suggesting she may have had prior contact with Dobyne, but counsel made a strategic decision to retain her. Dobyne also alleged that counsel was ineffective for failing to present additional venue evidence and for failing to investigate the voluntariness of his police statement in light of his limited intellectual functioning.

PROCEDURAL HISTORY

Dobyne was convicted and sentenced to death, and his conviction and sentence were affirmed on direct appeal. The trial court denied his Rule 32 petition alleging juror misconduct and ineffective assistance of counsel. The Alabama Court of Criminal Appeals affirmed, and the Alabama Supreme Court granted certiorari to address the standard of review and three arguments concerning juror misconduct and ineffective assistance.

DISPOSITION

affirmed

CASES CITED

- Dobyne v. State, 805 So. 2d 733 (Ala. Crim. App. 2000)
- Dobyne v. State, 672 So. 2d 1353 (Ala. Crim. App. 1994)
- Ex parte Dobyne, 672 So. 2d 1354 (Ala. 1995)
- Siebert v. State, 778 So. 2d 842, 847 (Ala. Crim. App. 1999)
- Thompson v. State, 615 So. 2d 129 (Ala. Crim. App. 1992)
- Cade v. State, 629 So. 2d 38, 41 (Ala. Crim. App. 1993)
- Neelley v. State, 642 So. 2d 494, 496 (Ala. Crim. App. 1993)
- State v. Tarver, 629 So. 2d 14, 19 (Ala. Crim. App. 1993)
- Davis v. State, 720 So. 2d 1006, 1013 (Ala. Crim. App. 1998)
- Brownlee v. State, 666 So. 2d 91, 93 (Ala. Crim. App. 1995)
- Horsley v. State, 675 So. 2d 908 (Ala. Crim. App. 1996)
- Grayson v. State, 675 So. 2d 516 (Ala. Crim. App. 1995)
- Payne v. State, 791 So. 2d 383 (Ala. Crim. App. 1999)
- Boyd v. State, 746 So. 2d 364 (Ala. Crim. App. 1999)
- Lawhorn v. State, 756 So. 2d 971 (Ala. Crim. App. 1999)
- Jones v. State, 753 So. 2d 1174 (Ala. Crim. App. 1999)
- Ex parte Pierce, ___ So. 2d ___ (Ala. 2000)
- Brown v. State, 807 So. 2d 1 (Ala. Crim. App. 1999)

- State v. Freeman, 605 So. 2d 1258 (Ala. Crim. App. 1992)
- Tomlin v. State, 695 So. 2d 157, 169-70 (Ala. Crim. App. 1996)
- Roan v. State, 225 Ala. 428, 143 So. 454, 459 (1932)
- Dawson v. State, 710 So. 2d 472, 474-76 (Ala. 1997)
- Reed v. State, 547 So. 2d 596 (Ala. 1989)
- Ex parte Apicella, ____ So. 2d ____ (Ala. 2001)
- Fabianke v. Weaver, 527 So. 2d 1253 (Ala. 1988)
- Freeman v. Hall, 286 Ala. 161, 238 So. 2d 330, 335 (1970)
- Ex parte Ledbetter, 404 So. 2d 731 (Ala. 1981)
- State v. Freeman, 605 So. 2d 1258 (Ala. Crim. App. 1992)
- Ex parte Pressley, 770 So. 2d 143, 147 (Ala. 2000)
- Malone Freight Lines, Inc. v. McCardle, 277 Ala. 100, 167 So. 2d 274 (1964)
- Strickland v. Washington, 466 U.S. 668 (1984)
- Hobbs v. State, 401 So. 2d 276, 282 (Ala. Crim. App. 1981)
- Whittle v. State, 518 So. 2d 793, 796-97 (Ala. Crim. App. 1987)
- Eaton v. Horton, 565 So. 2d 183 (Ala. 1990)
- Land & Assocs., Inc. v. Simmons, 562 So. 2d 140 (Ala. 1989)