

SUPREME COURT OF APPEALS OF WEST VIRGINIA

Ross Jenkins v. J.T. Binion, Superintendent, Huttonsville Correctional Facility

No. 19-0507 (W. Va. Aug. 28, 2020) (memorandum decision) · No. No. 19-0507 · Decided August 28, 2020

SUMMARY

The Supreme Court of Appeals of West Virginia affirmed the denial of Ross Jenkins’s fifth petition for a writ of habeas corpus. The court held that the circuit court properly denied the petition without a hearing or appointment of counsel, relying on res judicata and concluding that the petition established no entitlement to relief.

CASE DETAILS

COURT	Supreme Court of Appeals of West Virginia
WRITING FOR THE COURT	Chief Justice Tim Armstead; Justice Margaret L. Workman; Justice Elizabeth D. Walker; Justice Evan H. Jenkins; Justice John A. Hutchison
JURISDICTION	West Virginia
DECIDED	August 28, 2020
DOCKET	No. 19-0507
DISPOSITION	affirmed
PROCEDURAL POSTURE	Petitioner appealed the Circuit Court of Marion County's order denying his fifth petition for a writ of habeas corpus without a hearing.
STANDARD OF REVIEW	The final order and ultimate disposition in a habeas corpus action are reviewed for abuse of discretion, underlying factual findings are reviewed for clear error, and questions of law are reviewed de novo.
PRECEDENTIAL VALUE	Published memorandum decision; precedential status is not otherwise specified in the opinion text.
PARTIES	Ross Jenkins v. J.T. Binion, Superintendent, Huttonsville Correctional Center

TOPICS

state post-conviction relief habeas corpus successive petitions appellate procedure right to counsel

PRACTICE AREAS

criminal procedure

post-conviction relief

habeas corpus

appellate procedure

QUESTIONS PRESENTED

1. Whether the circuit court erred by denying Jenkins's fifth habeas petition without a hearing or appointment of counsel.
2. Whether Jenkins's claim alleging ineffective assistance of habeas counsel warranted relief despite the res judicata effect of the prior omnibus habeas proceeding.
3. Whether the circuit court abused its discretion in denying the fifth habeas petition.

HOLDINGS

1. A court with jurisdiction over habeas proceedings may deny a habeas petition without a hearing and without appointing counsel when the petition and supporting materials show that the petitioner is entitled to no relief.
2. A prior omnibus habeas corpus hearing is res judicata as to matters raised and matters known or discoverable through reasonable diligence, subject to the exception for ineffective assistance of counsel during the omnibus habeas hearing.
3. The circuit court did not abuse its discretion by denying Jenkins's fifth habeas petition without a hearing, and its order was affirmed.

KEY QUOTATIONS

“In reviewing challenges to the findings and conclusions of the circuit court in a habeas corpus action, we apply a three-prong standard of review. We review the final order and the ultimate disposition under an abuse of discretion standard; the underlying factual findings under a clearly erroneous standard; and questions of law are subject to a de novo review.”

“a prior omnibus habeas corpus hearing is res judicata as to all matters raised and as to all matters known or which with reasonable diligence could have been known”

“A court having jurisdiction over habeas corpus proceedings may deny a petition for a writ of habeas corpus without a hearing and without appointing counsel for the petitioner if the petition, exhibits, affidavits or other documentary evidence filed therewith show to such court’s satisfaction that the petitioner is entitled to no relief.”

FACTUAL BACKGROUND

Jenkins was convicted by a Marion County jury in 1995 of burglary and two counts of second-degree sexual assault, and a separate jury found him to be a habitual offender. His first habeas proceeding involved allegations including perjured grand-jury testimony by the arresting officer and was denied after omnibus hearings. In his fifth habeas petition, Jenkins alleged that his habeas counsel failed to seek a new trial or dismissal based on evidence concerning an allegedly illegal pretrial identification. The circuit court denied the petition without a hearing, concluding that the claim was barred by res judicata and lacked merit.

PROCEDURAL HISTORY

Jenkins was convicted in 1995 of burglary and two counts of second-degree sexual assault and was later found to be a habitual offender. He filed his first habeas petition in 1997; after an amended petition and omnibus hearings, the circuit court denied relief in 2001, and the Supreme Court of Appeals refused the appeal in 2002. Jenkins filed his fifth habeas petition in 2017, alleging ineffective assistance of habeas counsel, and the circuit court denied it without a hearing on res judicata and merits grounds. The Supreme Court of Appeals affirmed.

DISPOSITION

affirmed

CASES CITED

- Mathena v. Haines, 219 W. Va. 417, 633 S.E.2d 771 (2006)
- Anstey v. Ballard, 237 W. Va. 411, 787 S.E.2d 864 (2016)
- Losh v. McKenzie, 166 W. Va. 762, 277 S.E.2d 606 (1981)
- Perdue v. Coiner, 156 W. Va. 467, 194 S.E.2d 657 (1973)
- White v. Haines, 215 W. Va. 698, 601 S.E.2d 18 (2004)
- Watts v. Ballard, 238 W. Va. 730, 798 S.E.2d 856 (2017)
- Sands v. Sec. Trust Co., 143 W. Va. 522, 102 S.E.2d 733 (1958)
- State v. Jenkins, No. 19-0026, 2020 WL 3408320 (W. Va. June 18, 2020) (memorandum decision)