

**Summary of SC88942, *State ex rel. John E. Winfield v. Donald P. Roper,*
*Superintendent***

Habeas corpus proceeding originating in St. Louis County, Judge Mark D. Seigel

Attorneys: Winfield was represented by Joseph Luby and Sean D. O'Brien of the Public Interest Litigation Clinic in Kansas City, (816) 363-2795; and the state was represented by Andrew W. Hassell of the attorney general's office in Jefferson City, (573) 751-3321.

This summary is not part of the opinion of the Court. It has been prepared by the communications counsel for the convenience of the reader. It neither has been reviewed nor approved by the Supreme Court and should not be quoted or cited.

Overview: A man sentenced to death seeks relief, arguing the jury deadlocked on the issue of punishment and improperly was directed to continue deliberating. In a unanimous per curiam decision that cannot be attributed to any particular judge, the Supreme Court of Missouri denies the relief requested, holding the record before the special master it appointed and from the trial fail to support the man's allegations.

Facts: John Winfield was convicted of first-degree murder and was sentenced to death. His convictions were affirmed on appeal, *State v. Winfield*, 5 S.W.3d 505 (Mo. banc 1999), and he was denied post-conviction relief, *Winfield v. State*, 93 S.W.3d 732 (Mo. banc 2002). Winfield now seeks a writ of habeas corpus, alleging that, during the penalty phase of his trial, the jury improperly was directed to continue deliberating after it indicated it was deadlocked. This Court appointed a special master, who heard testimony from the trial judge, all the trial jurors, the bailiff from the trial and others and who subsequently filed a report concluding the jury did not advise that it was deadlocked on whether to impose a sentence of death or life in prison and that it was not instructed to continue deliberating.

PETITION DENIED.

Court en banc holds: Winfield's petition is denied, as he failed to prove his allegations. The record before the master and at trial fails to show that the jury deadlocked or that the jury was directed to continue deliberating. The judge, bailiff and jury foreperson all categorically deny any such occurrence, and those testifying on Winfield's behalf were less definite as to what had happened at trial.