Summary of SC98343, *State ex rel. Walter Barton v. William Stange*
Original proceeding in habeas corpus
Opinion issued April 27, 2020

Attorneys: Barton was represented by Frederick A. Duchardt Jr., an attorney in Trimble, (816) 213-0782. The state was represented by Michael J. Spillane 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 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 scheduled for execution in May seeks a writ of habeas corpus, alleging he is actually innocent and incompetent to be executed. In a unanimous per curiam decision that cannot be attributed to any particular judge, the Supreme Court of Missouri denies the writ. The man has not made the threshold showing necessary to render him incompetent to be executed under constitutional principles, nor has he proven he is incompetent to be executed under Missouri's statute. He also has not offered sufficient evidence to show actual innocence. The motion for stay of execution in SC97859 was contemporaneously overruled.

Facts: Walter Barton was convicted of first-degree murder and sentenced to death. In February, this Court issued its order setting his execution date for May 19, 2020. Barton now seeks this Court's writ of habeas corpus, alleging he is actually innocent and is incompetent to be executed.

PETITION FOR A WRIT OF HABEAS CORPUS DENIED.

Court en banc holds: (1) Barton has not offered evidence sufficient to show actual innocence entitling him to relief. His trial counsel impeached a jailhouse informant about her prior convictions for crimes involving untruthfulness, and evidence the informant was convicted of additional similar crimes is simply more of the same evidence that could have been used for additional impeachment. Barton claimed at trial the blood found on his shirt and pants was not blood spatter evidence, and his trial counsel determined it was more effective to impeach the state's expert than to present competing testimony from a blood spatter expert to explain the presence of blood on his clothes, which might have been inconsistent with Barton's explanation of how the blood got there. While the additional evidence may have been helpful, considered together with the other evidence, it does not show actual innocence by a preponderance of the evidence, as required for a gateway claim of actual innocence, nor does it rise to the level of clear and convincing evidence required for a freestanding claim of actual innocence.

(2) Barton has not demonstrated the substantial threshold showing required to support either a constitutional or statutory claim of incompetence to be executed. Barton has not shown he experiences gross delusions or another mental disorder preventing him from comprehending the meaning and purpose of the death sentence. The forensic evaluation on which he now relies acknowledges he is competent under controlling United States Supreme Court precedent, noting he has both a factual and rational understanding of the punishment and reasons for it, and he does not suffer from delusional thinking. His statutory claim fails for the same reasons.