

SC92166, Leonard S. Taylor v. State of Missouri

Appeal from the St. Louis County circuit court, Judge James R. Hartenbach
Argued and submitted Sept. 13, 2012; opinion issued Oct. 30, 2012

Attorneys: Taylor was represented by Jeannie M. Willibey of the public defender's office in Kansas City, (816) 889-7699, and the state was represented by Evan J. Buchheim 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 for the shooting deaths of his girlfriend and her three children appeals the circuit court's denial of post-conviction relief. In a 6-0 decision written by Judge Mary R. Russell, the Supreme Court of Missouri affirms the circuit court's judgment. The man failed to satisfy the test under *Strickland v. Washington*, 466 U.S. 668 (1984), that, but for the alleged ineffective assistance of his trial counsel, the result of his trial would have been different. Further, the man fails to show that he was prejudiced by an alleged violation of his right to due process. The result would not have been different – and, therefore, no prejudice occurred – because overwhelming evidence was presented at trial of the man's guilt.

Facts: Leonard Taylor was convicted of four counts of first-degree murder and armed criminal action for the November 2004 shooting deaths of his girlfriend and her three children and was sentenced to death. This Court affirmed his sentence on direct appeal. *State v. Taylor*, 298 S.W.3d 482 (Mo. banc 2009). Taylor subsequently sought post-conviction relief, which the circuit court denied after a hearing regarding some, but not all, of the issues raised in Taylor's motion. Taylor appeals.

AFFIRMED.

Court en banc holds: (1) The circuit court did not clearly err in overruling Taylor's motion for post-conviction relief.

(a) To obtain relief for ineffective assistance of counsel, a defendant must satisfy the two-prong test of *Strickland v. Washington*, 466 U.S. 668, 687 (1984), by showing that counsel's performance fell below an objective standard of reasonableness and that the defendant was prejudiced by counsel's deficiency in that, had counsel not made the unprofessional errors alleged, the result at trial would have been different. A court determining whether counsel was ineffective need not apply both prongs of the *Strickland* test if the defendant failed to make a sufficient showing as to one of the prongs. *Id.* at 697. Here, Taylor failed to make a sufficient showing of prejudice because the overwhelming evidence presented at trial established his guilt. The records of the telephone companies and the testimony by one of the companies' representatives were only part of the evidence used to convict Taylor. Evidence was presented that there was no sign of forced entry into the girlfriend's home; that Taylor's fingerprints were found on a can in her kitchen; and that all 10 bullets recovered from the home, the girlfriend and the children all had been fired from the same .38 or .357-caliber

revolver. Evidence also was presented that Taylor confessed to his brother that he had killed his girlfriend and her children and that statements Taylor made to his brother were consistent with evidence the police found in the girlfriend's home. In addition, evidence was presented that Taylor's sister-in-law saw him throw what appeared to be a long-barreled revolver into a sewer near her home before she gave him a ride to the airport and that he boarded a flight traveling under a different name and that a partial box of .38 special ammunition was found inside the vehicle Taylor drove to his sister-in-law's home. Finally, evidence was presented that, when Taylor was arrested in December in Kentucky, he was trying to avoid authorities by lying on the floorboard of a car, he gave the police a false name and Missouri identification with that name, and a pair of glasses he was seen wearing before the murders had blood near a nose guard that DNA testing showed may have come from the girlfriend. Because Taylor failed to meet the "but for" prejudice test in *Strickland*, it is unnecessary for this Court to review his claims under the alternative prong.

(b) Taylor has not established that he was denied due process of law based on the testimony of a telephone company representative. During the hearing regarding the post-conviction relief motion, the representative testified that, at the trial, she believed the records about which she was testifying contained all outgoing calls, but that later, she learned that was not true. To obtain post-conviction relief based on a due process violation, Taylor would have had to show that the testimony given was false, that the state knew it was false and that his conviction was obtained as a result of the false testimony. The Court declines Taylor's request to eliminate the second requirement of this burden. Such a change would lead to the nonsensical result of expecting the state to be able to read the mind of its witnesses. Further, eliminating that prong would not help Taylor. There is no dispute that, at the time of trial, the state believed the telephone company representative's testimony was true. Additionally, as noted in paragraph (a) above, even without the representative's testimony, there was overwhelming evidence presented of Taylor's guilt.