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Summary of State v. Williams, 120 Nev. Adv. Rep. 52

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State v. Williams, 120 Nev. Adv. Rep. 52, 93 P.3d 1258 (Nev. 2004)¹

CRIMINAL PROCEDURE – HABEAS CORPUS

Summary

Following her conviction for six counts of driving with prohibited substance in blood or urine, one count of use of controlled substance, and one count of possession of controlled substance, petitioner sought writ of habeas corpus.²

Disposition/Outcome

The Supreme Court of Nevada (“the court”) held that: 1) the petitioner did not establish good cause for failing to raise her claim that marijuana metabolite was not a prohibited substance at trial or on direct appeal, and was thus procedurally barred, and 2) that marijuana metabolite is prohibited substance.³

Factual & Procedural History

A grand jury indicted Jessica Williams on six counts of driving and/or being in actual control of a vehicle while under the influence of a controlled substance, reckless driving, and involuntary manslaughter.⁴ She was indicted on one count of being under the influence of a controlled substance, possession of a controlled substance and possession of drug paraphernalia.

Williams was found guilty for six counts of driving a vehicle with a prohibited substance in her blood or urine, one count for each of the six deaths she caused. She was also convicted of unlawfully using a controlled substance and possession of a controlled substance, but was acquitted of the remaining charges.

On direct appeal, Williams raised several contentions, but the court finding no errors, affirmed the convictions.⁵

Williams then filed a post-conviction petition for writ of habeas corpus in the district court, alleging that the prohibited substance found in her blood was marijuana metabolite (carboxylic acid) is not prohibited under N.R.S 484.125.⁶ She argued that since carboxylic acid was not specifically listed as a prohibited substance under schedule I or II, her conviction was unconstitutional on the ground that one of theories presented to the jury was false.⁷

The State argued that Williams’ petition was procedurally barred, and that even if the petition was properly before the court, it should be denied because marijuana metabolite is specifically prohibited by N.R.S. 484.1245 and 484.379.

¹ By Scott Whittemore

² *Williams*, 93 P.3d at 1258.

³ *Id.* at 1258.

⁴ *Id.* at 1259.

⁵ *See Williams v. State*, 118 Nev. 536, 554, 50 P.3d 1116, 1127 (Nev. 2002).

⁶ *Williams*, 93 P.3d at 1259.

⁷ *Id.* at 1259. *See also* NEV. REV. STAT. 453.166 (2003), and 453.176 (2003).

The district court conducted an evidentiary hearing, and agreed with Williams, granting her petition.⁸ The district court then ordered that Williams' conviction for driving a vehicle with a prohibited substance in the blood or urine to be reversed. The State then filed an appeal.

Discussion

The State argued that Williams' petition was procedurally barred by N.R.S. 34.810, and that her claim that marijuana metabolite was not a prohibited substance was a new claim that she should have raised at trial or on direct appeal.⁹ N.R.S. 34.810 creates a procedural bar for new post-conviction claims that could have been raised earlier.

In Williams' case, the court found that 1) her claim about marijuana metabolite was new, and should have been raised previously, and 2) absent a showing of cause or prejudice, her claim was procedurally barred.

The court went on to explain that to establish good cause for failure to raise a claim in an earlier proceeding, the petitioner must demonstrate "that an impediment external to the defense prevented her from raising her claims earlier."¹⁰

The court found that there was no merit to Williams' argument of good cause, (specifically, that she didn't raise the claim earlier because of the highly complex, and scientific nature of her claim) and that she failed to establish prejudice to overcome the bar of N.R.S. 34.810. Despite her claim to the contrary, N.R.S. 484.379 and 484.1245, both list marijuana metabolite as prohibited substances, and as such, the Legislature intended incorporation by reference under 484.3795(1)(f).¹¹

Though the court admitted there could be confusion as to a partial statutory ambiguity, this claim did not rise to the level of creating actual prejudice, and as such, did not consider her claim that there existed a "fundamental miscarriage of justice."¹²

Conclusion

The court concluded that Williams failed to show good cause and actual prejudice to pass the procedural bar of her post-conviction habeas petition. Thus, the court reversed the district court's determination in granting Williams' conviction petition for a writ of habeas corpus.

⁸ *Id.* at 1260.

⁹ *Id.* at 1260.

¹⁰ *Id.* at 1260. *See also* Hathaway v. State, 119 Nev. 248, 252, 71 P.3d 503, 506 (Nev. 2003); Pelligrini v. State, 117 Nev. 860, 886, 34 P.3d 519, 537 (Nev. 2001).

¹¹ *Id.* at 1262.

¹² *Id.* at 1263.