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2016 WL 355874 (Kan.App.) (Appellate Brief)
Court of Appeals of Kansas.

Brief of Appellee

Hassen AHMEDIN, v. STATE OF KANSAS. Court of Appeals of Kansas (Appellate Brief) (13 pages)

Hassen AHMEDIN
v.
STATE OF KANSAS.

No. 15-114333-A.
January 14, 2016.

Appeal from the District Court of Seward County, Kansas

Honorable Clinton B. Peterson, Judge
District Court Case No. 14-CV-44

Brief of Appellee

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@sewardcountyks.org, for appellee.

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Cases, 58 N.Y.U.L. Rev. 299, 343 (1983) 5
*iii Strickland v. Washington, 466 U.S. 668, 104 S. Ct 2052, 80 L. 3d 2d 674 (1984)
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SELECTED TOPICS

Criminal Law

Sufficient Prejudice Defeats Claim of
Ineffective Assistance of Counsel

Secondary Sources

Strategies For Enforcing the Right To
Effective Representation

46 Am. Jur. Trials 571 (Originally published in
1993)

...Under the Sixth Amendment of the United
States Constitution, in a criminal case "the
accused shall enjoy the right ... to have the
assistance of Counsel for his defense." The
Supreme Court has long recog...

Modern status of rules and standards
in state courts as to adequacy of
defense counsel's representation of
criminal client

2 A.L.R.4th 27 (Originally published in 1980)

...This annotation collects and analyzes
representative modern state court decisions
discussing and determining the applicability
of the rules and tests governing defendants'
claims of inadequate represen...

Ineffective Assistance of Counsel

5 Am. Jur. Proof of Facts 2d 267 (Originally
published in 1975)

...Under the Sixth Amendment to the United
States Constitution, and under the
constitutions of most states, a criminal
defendant has the right to the assistance of
counsel in his defense. The right to cou...

See More Secondary Sources

Briefs

Petitioner's Brief on the Merits

2010 WL 1919618
Kelly HARRINGTON, Warden, Petitioner, v.
Joshua RICHTER, Respondent.
Supreme Court of the United States
May 10, 2010

...FN* Counsel of Record The en banc
opinion of the Ninth Circuit Court of Appeals,
granting habeas corpus relief, is reported as
Richter v. Hickman, 578 F.3d 944 (9th Cir.
2009) (en banc). The earlier pa...

Petition for Writ of Certiorari

2016 WL 4239622
George Douglas VAUGHAN, Petitioner, v.
STATE OF COLORADO, Respondent.
Supreme Court of the United States
Feb. 22, 2016

...The unpublished opinion of the Colorado
Court of Appeals is attached hereto as
Appendix A. The written ruling of the state
postconviction court denying Mr. Vaughan's
ineffective-assistance-of-counsel c...

Brief of Appellant

2005 WL 3628856
Floyd S. BLEDSOE, Petitioner-Appellant, v.
State of Kansas, Respondent-Appellee.
Supreme Court of Kansas
Nov. 30, 2005

...Petitioner-Appellant, Floyd S. Bledsoe,
appeals from the denial of his petition for
postconviction relief pursuant to K.S.A. 60-
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living with Petitioner and his ...

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Statement of Issues

Issue 1: Whether the appellant's appellate counsel was effective when counsel did not raise the issue of insufficient evidence to prove the defendant's guilt on each element of rape.

Issue 2: Whether appellant's appellate counsel was effective when counsel did not raise the issue of judicial misconduct by the trial judge and the trial courts' application of the rape shield statute.

Issue 3: Whether the defendant's trial counsel was ineffective when trial counsel conducted voir dire and allowed another prosecutor's fiance to be picked as a juror.

Statement of Facts

On February 25, 2010, in Seward County Case No. 2009-CR-308, the Movant was found guilty of and convicted of rape, a severity level (1) person felony, after jury trial. (R. 1, 115-116).

On March 5, 2010, the Movant filed a Motion for New Trial based on juror misconduct, prosecutorial misconduct, and a violation of statutory and constitutional rights when he was denied an interpreter for post-trial and sentencing proceedings. (R. 1, 111). On April 2, 2010, the court denied Movant's Motion for new Trial. (R. 1, 128). On April 26, 2010, Movant was sentenced to one hundred fifty five (155) months in the Department of Corrections with lifetime post-release supervision. (R. 1, 143-151). *2 Movant filed a Notice of appeal on May 3, 2010. (R. 1, 131). On May 18, 2012, the Kansas Court of Appeals affirmed the Movant's conviction and sentence, concluding that the Movant's claims of error were either baseless or harmless in Appellate Case Number 105378. On May 5, 2014, the movant filed a Motion pursuant to K.S.A. 60-1507 in the district Court of Seward County, Kansas. On October 4, 2014, the court filed its Journal Entry on 604507 Motion denying Movant's Motion. The Movant filed his Notice of Appeal on October 27, 2014.

***1 Nature of Case**

This is an appeal from the trial court's denial of the Movant's 60-1507 Motion, The trial court denied. Movant's claims that trial and appellate counsel were ineffective based on numerous reasons.

Arguments and Authorities

Issue 1: Whether the appellant's appellate counsel was effective when counsel did not raise the issue of insufficient evidence to prove the defendant's guilt on each element of rape.

Standard of Review

To begin with, there is no such charge or elements of "aggravated rape" in the State of Kansas. The statute in effect at the time of charging the defendant and trial was K.S.A. 21-3501 and is titled, "rape", There is no such charge as aggravated rape and hence no elements to be proved for aggravated rape.

As to the rape charge the first element under PIK 55.030 is that the defendant knowingly engaged in sexual intercourse with J.E.Z. (the victim). In this case, the defendant admitted he had sex with J.E. Z. (R.O.A. XI, 358). That element is agreed to by both parties. Therefore, it is not in dispute. The second element is that J.E.Z. did not give the defendant consent to have sex with her. That element is met by the testimony of J.E.Z. (R.O.A. X, 202, 204, 208, 210, 211, 214). The next element is that the sexual intercourse occurred under circumstances when J.E.Z. was overcome by force (R.O.A. X, 202-215). The last element is that the events occurred in Seward County Ks. (R.OA. I, 1, 102) (R. X, 174, 178).

*3 To prove ineffective assistance of appellate counsel, a defendant must show that "(1) counsel's performance, based upon the totality of the circumstances, was deficient in that it fell below an objective standard of reasonableness and (2) the appellant was prejudiced to

See More Briefs

Trial Court Documents

Kansas v. Cheatham

2010 WL 9938952
 STATE OF KANSAS, Plaintiff/Appellee, v. Phillip D. CHEATHAM, Jr., Defendant/Appellant.
 District Court of Kansas.
 Feb. 22, 2010

...This matter comes on for decision following a Van Cleave hearing to determine whether Defendant's trial counsel rendered ineffective assistance of counsel in the Defendant's capital murder case. The Va...

Deanna WIGGETT, Petitioner, v. State of Kansas, Respondent.

2004 WL 5198710
 Deanna WIGGETT, Petitioner, v. State of Kansas, Respondent.
 District Court of Kansas.
 Sep. 30, 2004

...This matter is before the court on a Petition for Relief Under K.S.A. 60- 1507, filed by Deanna Wiggett after being convicted in Sedgwick County District Court of attempted kidnapping, aggravated burgl...

Appleby v. State

2011 WL 8491087
 Benjamin APPLEBY, Petitioner, v. State of Kansas, Respondent.
 District Court of Kansas.
 Aug. 01, 2011

...KSA Chapter 60 This matter is before the Court on a Petition for Writ of Habeas Corpus pursuant to K.S.A. 60-1507. The petitioner filed a Memorandum in Support of the Petition on October 4, 2010. The S...

See More Trial Court Documents