Supreme Court of Florida

No. 80,124

ORIGINAL

GREGORY MILLS, Petitioner,

v.

HARRY K. SINGLETARY, etc., Respondent.

[October 22, 1992]

PER CURIAM.

Gregory Mills, a prisoner on death row, petitions this Court for writ of habeas corpus. We have jurisdiction pursuant to article V, section 3(b)(1), (9), Florida Constitution. Because the issues raised are procedurally barred, we deny the petition.

Mills has been before this Court several times: Mills v. State, 476 So.2d 172 (Fla. 1985) (direct appeal), cert. denied, 475 U.S. 1031 (1'386); Mills v. Dugger, 559 So.2d 578 (Fla. 1990) (habeas, postconviction); and Mills v. State, no. 77,367 (Fla. June 4, 1992) (postconviction). He raises two issues in this

petition: 1) in affirming the death sentence this Court performed an inadequate harmless error analysis; and 2) the felony-murder aggravator is an unconstitutional automatic aggravating circumstance in **felony** murders. This, however, is Mills' second petition for writ of habeas **corpus.**

Habeas corpus cannot "be used 'for obtaining **additional** appeals of issues which were raised, or should have been raised, on direct appeal or which were waived at trial or which could have, should have, or have been raised in' **prior** postconviction filings." Mills v. Duqqer, 574 So.2d **63, 65** (Fla. 1990), quoting White v. Duqqer, 511 So.2d 554, 555 (Fla. 1987). In an attempt to overcome this procedural bar Mills argues that Sochor v. Florida, 112 S.Ct. 2114 (1992), Stringer v. Black, 112 S.Ct. 1130 (1992), and Parker v. Duqqer, **111** S.Ct. **731** (1991), are major changes in the law that should be applied retroactively under Witt v. State, **387** So.2d 922 (Fla.), **cert.** denied, 449 U.S. 1067 (1980), to give relief in postconviction proceedings. We disagree.

We have **previously** held **that** Stringer and Parker do not meet the Witt requirements. **Kennedy** v. Singletary, 599 So.2d 991 (Fla.), cert. denied, 112 S.Ct. **3040** (1992); Routly v. State, 590 So.2d 397 (Fla. 1991). The United States Supreme Court remanded Sochor **for** our reconsideration because **we** had not made a plain statement that we found the error in Sochor's sentencing to be harmless. Sochor is not a change in the law that will save Mills' first claim from a procedural bar, and that claim is

barred from consideration, Moreover, in affirming Mills' death sentence we stated: "Because there were no mitigating circumstances, we find that the court's erroneous finding of two statutory aggravating circumstances was harmless and did not impair the sentencing process.'' 476 So.2d at 179. We, therefore, applied, and applied correctly, a harmless error analysis in Mills' direct appeal. Cf Barclay v. Florida, 463 U.S. 939, 958 (1983) ("the Florida Supreme Court does not apply its harmless-error analysis in an automatic or mechanical fashion, but rather upholds death **sentences** on the basis of this analysis only when it actually finds that the error is harmless"); see White v. Dugger, 565 So.2d 700 (Fla. 1990).

Mills' second **claim** is **also** procedurally barred. We considered and rejected the substance of this claim on direct **appeal.** 476 So.2d at 178. Thus, we found the claim procedurally barred in Mills' first habeas corpus petition. 559 So.2d at 579. Again, Stringer is not a change in the law that warrants **retroactive** application, and Mills' second claim is **procedurally** barred.

We therefore deny the petition for writ of habeas corpus.

It is so ordered.

BARRETT, **C.J., and** OVERTON, McDONALD, SHAW, GRIMES, KOGAN and **HARDING,** JJ., concur.

NOT FINAL UNTIL **TIME EXPIRES TO FILE REHEARING MOTION AND, IF FILED, DETERMINED.**

Original Proceeding - **Habeas** Corpus

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