Prosecuting Attorneys' Council of Georgia

State Prosecution Support Division fyi

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Lejeune v. McLaughlin

In Habeas Proceedings, the Petitioner Bears the Burden of Proving That His Plea Was Not Voluntary, Knowing and Intelligent

In *Lejeune v. McLaughlin*, S14A1155 (Nov. 24, 2014), appellant filed a habeas corpus petition, contending that his guilty plea to murder was invalid because he was never advised of his privilege against self-incrimination. The habeas court found that appellant had an adequate understanding of the constitutional privilege by virtue of his participation in earlier events in the course of his prosecution. It therefore denied appellant's petition for habeas corpus.

Appellant argued that the habeas court erred in finding that the Warden proved that his plea was voluntary, knowing, and intelligent. The Supreme Court agreed. Specifically, the Court found that the habeas court erred in its findings as to appellant's knowledge and understanding regarding his right against self-incrimination because they were not supported by the record.

However, the Court also found, the burden should not have been placed on the Warden to prove that appellant's plea was voluntarily, knowingly and intelligently made. The Court noted that in *Boykin v. Alabama*, 395 U.S. 238 (89 S.Ct. 1709, 23 L.E.2d 274) (1969), the U. S. Supreme Court held that it is the State's burden to prove that a plea was voluntary, knowing and intelligent. In *Purvis v. Connell*, 227 Ga. 764 (1971), the Court extended this allocation of the burden to habeas cases. But, the Court stated, it failed in *Purvis* to acknowledge that *Boykin* was not a habeas case, but rather, a direct appeal from a judgment of conviction. Moreover, the Court stated, it misread *Boykin* because in *Parke v. Raley*, 506 U.S. (113 S.Ct. 517, 121 L.E.2d 391) (1992), the U. S. Supreme Court clearly stated "that *Boykin* did not … abrogate the presumption of regularity that attaches to final judgments, and nothing about *Boykin* requires that the State bear the burden of proving the voluntariness of a plea in the context of a collateral attack upon a final judgment." Thus, after reviewing the case law following *Purvis*, the Court concluded that "*Purvis* and its progeny are based on a misunderstanding of *Boykin*, and they are inconsistent with the historical understanding in Georgia of the writ of habeas corpus." Accordingly, the Court overruled *Purvis* and its progeny and held "that [appellant] bears the burden as the petitioner of proving that his plea was not voluntary, knowing, or intelligent." Noting that appellant may have been "caught somewhat by surprise" with its decision, and to afford appellant "a fair opportunity" to carry his burden of proof, the Court vacated the decision of the habeas court and remanded for a new evidentiary hearing.

The decision in *Lejeune* is a major change in the law regarding collateral attacks on convictions resulting from guilty pleas. It appears that the decision will affect not just habeas cases, but any collateral attack on such convictions. See, e.g. *Nash v. State*, 271 Ga. 281 (1999) (establishing burdens in a collateral attack on conviction intended for use by the State for recidivist sentencing).