

No. 24-5660

UNITED STATES COURT OF APPEALS
FOR THE SIXTH CIRCUIT**FILED**

Oct 18, 2024

KELLY L. STEPHENS, Clerk

JEROME M. TEATS,

Petitioner-Appellant,

v.

BRANDON WATWOOD, Warden,

Respondent-Appellee.

ORDER

Before: McKEAGUE, Circuit Judge.

Jerome M. Teats, a pro se Tennessee prisoner, appeals a district court's order denying his motion for relief from judgment in his 28 U.S.C. § 2254 action. *See* Fed. R. Civ. P. 60(b). We construe his notice of appeal as an application for a certificate of appealability (COA). *See* Fed. R. App. P. 22(b). As discussed below, we deny the COA application.

Teats was charged with one count of aggravated robbery of a restaurant manager and four counts of especially aggravated kidnapping of other restaurant employees. The trial court appointed Christopher Coats to represent Teats and ordered a forensic psychologist, Dr. Kimberly Brown, to evaluate Teats's competency. Coats withdrew as counsel upon Teats's retention of Jim Todd. Teats later hired Patrick McNally as co-counsel.

Todd moved to suppress Teats's statements to police after his arrest. After conducting a hearing, the trial court denied the motion. *See State v. Teats*, No. M2012-01232-CCA-R3-CD, 2014 WL 98650, at *14 (Tenn. Crim. App. Jan. 10, 2014), *aff'd*, 468 S.W.3d 495 (Tenn. 2015).

At his trial, the court admitted Teats's statement to police, in which he acknowledged participating in the robbery and holding a man at gunpoint while his codefendant took women to the back of the restaurant. *See id.* at *4. Dr. Brown testified as to Teats's competency on the day

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of the robbery. *See id.* at *9. A jury convicted Teats as charged, and the trial court imposed a total effective prison term of 50 years. *See id.* at *1.

Teats then moved for a new trial on the kidnapping charges in light of *State v. White*, 362 S.W.3d 559, 578 (Tenn. 2012), which held that the trial court must instruct the jury to determine whether a kidnapping “is, in essence, incidental to the accompanying felony or, in the alternative, is significant enough, standing alone, to support a conviction.” The trial court denied the motion.

The Tennessee appellate courts affirmed Teats’s convictions, rejecting his arguments that, among other things, his suppression motion was erroneously denied and that his kidnapping convictions were based on improper jury instructions. *Teats*, 2014 WL 98650, at *30; *Teats*, 468 S.W.3d at 505.

Teats thereafter petitioned for post-conviction relief. The trial court appointed counsel, Elaine Heard, who filed an amended petition and raised claims of ineffective assistance of trial and appellate counsel. The trial court denied the amended petition after a hearing. The Tennessee Court of Criminal Appeals affirmed, *Teats v. State*, No. M2017-00855-CCA-R3-PC, 2019 WL 76643 (Tenn. Crim. App. Jan. 2, 2019), *app. denied* (Tenn. June 20, 2019), and granted Heard’s motion to withdraw on January 8, 2019. *See Teats v. Phillips*, No. 3:19-cv-00841, 2022 WL 879418, at *22 n.17 (M.D. Tenn. Mar. 23, 2022).

Teats soon filed a pro se motion to rehear the claims in his original post-conviction petition, the supplemental claims raised by counsel, and the claims raised during the hearing. On February 6, 2019, the Tennessee Court of Criminal Appeals denied the petition “[u]pon full consideration.”

Several months later, Teats filed his pro se § 2254 petition, asserting that:

(1) Coats rendered ineffective assistance by (a) instructing Teats to await the results of the competency evaluation before accepting a plea offer with a 12-year prison term and (b) failing to advise Teats that his statements to Dr. Brown could be used against him at trial;

(2) the prosecutor’s hand signals to a witness during the suppression hearing violated Teats’s due-process rights;

(3) his statements to police should have been suppressed;

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(4) the State withheld (a) immigration documents regarding the kidnapping victims and (b) a recorded conversation between Teats and a detective, in violation of *Brady v. Maryland*, 373 U.S. 83 (1963);

(5) Todd and McNally rendered ineffective assistance by (a) advising Teats to reject a plea offer with a 15-year prison term, (b) advising him not to testify at trial in order to successfully appeal the denial of his suppression motion, and (c) failing to object to a jury instruction on aggravated kidnapping;

(6) Teats's due-process rights were violated by the post-trial change in law promulgated in *White*;

(7) McNally rendered ineffective assistance by failing to include in the appellate record (a) the trial court's order denying the suppression motion and (b) a court opinion, *State v. Davis*, No. M2011-02075-CCA-R3-CD, 2012 WL 5947439 (Tenn. Crim. App. Nov. 16, 2012), supporting dismissal of the kidnapping charges;

(8) trial and appellate counsel's cumulative errors prejudiced Teats; and

(9) the post-conviction proceedings violated his right of access to the courts and to equal protection when a court clerk mishandled pro se pleadings that Teats wished to file.

In a motion to amend, Teats proposed new claims: (10) McNally rendered ineffective assistance by failing to argue on appeal that the change in law effected by *White* deprived him of due process; and (11) Todd and McNally rendered ineffective assistance by failing to obtain the aforementioned *Brady* evidence to use at trial.

On March 23, 2022, the district court denied Teats's § 2254 petition and his motion to amend, holding that his claims regarding the denial of the suppression motion and ineffective assistance with respect to the 15-year plea offer lacked merit and that the remaining claims were non-cognizable or procedurally defaulted. We denied his COA application. *Teats v. Genovese*, No. 22-5365, 2022 WL 22317601 (6th Cir. Nov. 4, 2022), *cert. denied*, 144 S. Ct. 1105 (2024).

In a motion citing Rule 60(b)(6) and postmarked December 18, 2023, Teats argued that the district court erred by concluding that he had procedurally defaulted some of his claims. He argued that he had discussed each of those claims in his motion to rehear the Tennessee Court of Criminal Appeals's opinion affirming the trial court's denial of his post-conviction petition. He contended

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that the appellate court's denial of his motion to rehear "[u]pon full consideration" meant that it had considered his claims on the merits. Alternatively, he contended that he had exhausted his claims by presenting each claim to the post-conviction court, the Court of Criminal Appeals, and the Tennessee Supreme Court.

The district court construed Teats's motion as brought under Rule 60(b)(1) and denied relief, reasoning in part that Teats had failed to demonstrate a substantive mistake of law. The court also declined to issue a COA.

"[T]his court will not entertain an appeal from the denial of a Rule 60(b) motion in [a § 2254] proceeding unless the petitioner first obtains a COA." *Johnson v. Bell*, 605 F.3d 333, 339 (6th Cir. 2010). To obtain a COA, a movant must make "a substantial showing of the denial of a constitutional right." 28 U.S.C. § 2253(c)(2); *see Miller-El v. Cockrell*, 537 U.S. 322, 336 (2003). Therefore, in reviewing a COA application in the Rule 60(b) context, this court asks "whether a reasonable jurist could conclude that the District Court abused its discretion in declining to reopen the judgment." *Buck v. Davis*, 580 U.S. 100, 123 (2017).

Jurists of reason would not disagree with the district court's denial of Teats's motion. Rule 60(b)(1) provides for relief from a final judgment based on "mistake, inadvertence, surprise, or excusable neglect." Fed. R. Civ. P. 60(b)(1). The rule "is intended to provide relief in only two situations: (1) when a party has made an excusable mistake or an attorney has acted without authority, or (2) when the judge has made a substantive mistake of law or fact in the final judgment or order." *United States v. Reyes*, 307 F.3d 451, 455 (6th Cir. 2002); *see also Penney v. United States*, 870 F.3d 459, 461 (6th Cir. 2017). Generally, a Rule 60(b)(1) motion must be filed within one year of the challenged judgment, *see* Fed. R. Civ. P. 60(c)(1), but a "motion based on legal error must be brought within the normal time for taking an appeal." *Pierce v. United Mine Workers of Am. Welfare & Ret. Fund*, 770 F.2d 449, 451 (6th Cir. 1985); *see also Fender Musical Instruments Corp. v. Swade*, 772 F. App'x 282, 284 n.2 (6th Cir. 2019). In a civil case, the notice of appeal must be filed within thirty days of the district court's judgment. Fed. R. App. P. 4(a)(1)(A). Here, the district court's judgment denying Teats's § 2254 petition was entered on

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March 23, 2022, but Teats did not file his motion for relief from judgment until December 18, 2023, nearly 21 months after entry of the judgment. Therefore, his Rule 60(b)(1) motion, which asserted legal error, was untimely.

Teats argued that his postjudgment motion sounded under Rule 60(b)(6), which provides for relief from judgment for “any other reason that justifies relief” and is not subject to the time limitations that Rule 60(b)(1) is. But Rule 60(b)(6) cannot provide relief for legal error absent other exceptional or extraordinary circumstances, *see Cincinnati Ins. Co. v. Byers*, 151 F.3d 574, 578 (6th Cir. 1998), and reasonable jurists would agree that Teats did not establish such circumstances.

For these reasons, we **DENY** Teats’s COA application.

ENTERED BY ORDER OF THE COURT


Kelly L. Stephens, Clerk

United States Court of Appeals for the Sixth Circuit

U.S. Mail Notice of Docket Activity

The following transaction was filed on 10/18/2024.

Case Name: Jerome Teats v. Brandon Watwood

Case Number: 24-5660

Docket Text:

ORDER filed: We DENY Teat's certificate of appealability application. David W. McKeague, Circuit Judge.

The following document(s) are associated with this transaction:

Document Description: Order

Notice will be sent to:

Jerome M. Teats
Northwest Correctional Complex
960 State Route 212
Tiptonville, TN 38079

A copy of this notice will be issued to:

Mr. Nicholas Bolduc
Ms. Lynda M. Hill