

Summary Statement
Row v. State
Docket No. 50540

This is a capital case. Robin Row was sentenced to death in 1993 for murdering her husband and two children in their sleep. Over the last four decades, Row has filed five petitions for post-conviction relief and two federal habeas corpus claims, all of which were unsuccessful. When Row filed a sixth petition for post-conviction relief, the district court dismissed Row's petition as untimely pursuant to Idaho Code section 19-2719, which states that post-conviction petitions must be filed "[w]ithin forty-two (42) days of the filing of the judgment imposing the punishment of death" for "any legal or factual challenge to the sentence or conviction that is known or reasonably should be known."

On appeal to the Idaho Supreme Court, Row contended that her sixth petition was timely under Idaho Code section 19-2719 for several reasons. First, Row asserted that she was ineffectively represented at her sentencing due to her trial counsel's failure to investigate and present mitigating evidence she alleges would have shown that she had brain damage at the time of the murders. She maintains that she can still assert this claim because her post-conviction relief counsel failed to address the brain damage issue as grounds for relief in her first petition. In Row's view, this excused her failure to timely raise her brain damage claims in her first post-conviction petition.

Row further argues that her sixth petition was timely, despite being filed nearly 30 years after the judgment imposing the death penalty, because the United States Supreme Court's decision in *Shinn v. Ramirez*, 596 U.S. 366 (2022), acted as a triggering event that restarted the 42-day time for Row to seek relief under Idaho Code section 19-2719. Row maintains that she relied on the procedure for federal habeas proceedings that existed prior to *Shinn* to pursue the factual development of her claims in federal court, as opposed to state court.

The Idaho Supreme Court affirmed the district court's dismissal of Row's petition as untimely under Idaho Code section 19-2719. First, the Supreme Court noted that in 2001 it addressed this same issue in Row's second appeal, when it held that Row's attempts to assert her brain damage claims were barred by section 19-2719. *Row v. State*, 135 Idaho 573, 576, 21 P.3d 895, 898 (2001). Turning to her current appeal, the Court reiterated: "We have consistently held that ineffective assistance of post-conviction counsel during the first post-conviction proceedings does not excuse a petitioner's failure to raise issues that were known, or reasonably could have been known, at the time of judgment." The Court also clarified that its previous holding in *Hall v. State*, 155 Idaho 610, 315 P.3d 798 (2013), did not provide capital defendants a right to effective assistance of post-conviction counsel. The Court further explained that "[i]f such a right existed, it would result in a perpetual cycle of successive petitions every time an earlier petition failed to afford relief—a result that Idaho Code section 19-2719 clearly intended to avoid."

Responding to Row's argument that *Shinn* acted as a triggering event that restarted the time for seeking relief, the Supreme Court concluded that it had already resolved this issue in *Creech v. State*, 173 Idaho 464, 543 P.3d 494 (2024). The Court explained that while *Shinn* modified federal habeas procedure, it did not change state statutes and procedures. Citing *Creech*, the Court noted that *Shinn* "merely reinforced the primacy of states' proceedings in federal habeas cases" and did

not “open the door for [a petitioner] to seek post-conviction relief in state court from [a] decades-old state conviction.” Therefore, the Court held that, as in *Creech*, Row’s claim was “already time-barred when *Shinn* was announced, and nothing in *Shinn* resuscitates that claim.”

******This summary constitutes no part of the opinion of the Court, but has been prepared by court staff for the convenience of the public.******