

Supreme Court of Florida

No. 71,020

BEAUFORD WHITE, Appellant

vs.

STATE OF FLORIDA, Appellee.

[August 25, 1987]

SHAW, J.

The Governor has signed a death warrant for White. We denied a petition for relief on 20 August 1987. White v. Dugger, No. 70,989 (Fla. Aug. 20, 1987). The basis for our denial of the petition was that White was procedurally barred from further post-conviction relief by Florida Rules of Criminal Procedure 3.850 and 3.851 and that no exception to these rules had been shown. Despite our holding, White petitioned the trial court for relief under rule 3.850 and a stay of execution. The trial court denied relief and the stay of execution, finding relief was barred by rules 3.850 and 3.851. White now appeals that denial. We have jurisdiction. Art. V, § 3(b)(1), Fla. Const.

We point out again to the office of collateral counsel that failure to follow rules 3.850 and 3.851 procedurally bars relief. The fact that we are dealing with a death sentence does not excuse appellant's failure to abide by the Florida Rules of Criminal Procedure.

We affirm the trial court's denial of relief and stay of execution. No petition for rehearing will be entertained.

It is so ordered.

MCDONALD, C.J., and OVERTON, EHRLICH and GRIMES, JJ., Concur
BARKETT and KOGAN, JJ., Concur in result only

An Appeal from the Circuit Court in and for Dade County,

Ronald M. Friedman, Judge - Case No. 77-28650-B

Larry Helm Spalding, Capital Collateral Representative, Mark Evan Olive, Chief Assistant and Billy H. Nolas and James C. Lohman, Staff Attorneys of the Office of the Capital Collateral Representative, Tallahassee, Florida,

for Appellant

Robert A. Butterworth, Attorney General, Richard L. Kaplan, Capital Collateral Coordinator and Richard L. Polin, Assistant Attorney General, Miami, Florida,

for Appellee