

Supreme Court of Florida

FRIDAY, MAY 22, 2009

CASE NO.: SC08-1986

Lower Tribunal No(s):

561991CF000136A

BILLY LEON KEARSE

vs. STATE OF FLORIDA

Appellant(s)

Appellee(s)

Billy Leon Kears, a prisoner under sentence of death, appeals from the trial court's summary denial of his successive motion for postconviction relief, raising two issues. See Fla. R. Crim P. 3.851. We previously affirmed Kears's convictions and sentence of death. See Kears v. State, 662 So. 2d 677 (Fla. 1995); Kears v. State, 770 So. 2d 1119 (Fla. 2000). We also affirmed the denial of his initial motion for postconviction relief and denied his petition for a writ of habeas corpus. Kears v. State, 969 So. 2d 976 (Fla. 2007).

In his first claim in this appeal, Kears contends that Florida's lethal injection procedures violate the constitutional prohibitions against cruel and unusual punishment. See U.S. Const. amend. VIII; art. I, 17, Fla. Const. We have repeatedly rejected similar lethal injection arguments. See Tompkins v. State, 994 So. 2d 1072, 1081 (Fla. 2008); Power v. State, 992 So. 2d 218, 220-21 (Fla. 2008); Sexton v. State, 997 So. 2d 1073, 1089 (Fla. 2008); Henyard v. State, 992 So. 2d 120, 129 (Fla.), cert denied, 129 S. Ct. 28 (2008); Schwab v. State, 995 So. 2d 922, 923-40 (Fla. 2008); Woodel v. State, 985 So. 2d 524, 533-34 (Fla. 2008); Lebron v. State, 982 So. 2d 649, 666 (Fla. 2008); Schwab v. State, 982 So. 2d 1158, 1159-60 (Fla. 2008). Additionally, we have held the procedures constitutional under the requirements of Baze v. Rees, 128 S. Ct. 1520 (2008).

See Ventura v. State, 2 So. 3d 194, 200 (Fla. 2009) ("Florida's current lethal-injection protocol passes muster under any of the risk-based standards considered by the Baze Court (and would easily satisfy the intent-based standard advocated by Justices Thomas and Scalia."); Henyard v. State, 992 So. 2d 120, 130 (Fla. 2008), cert. denied, 129 S. Ct. 28 (2008).

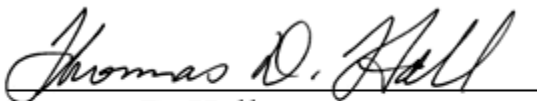
In his second claim, Kearsse contends that the trial court erred in denying his request for additional public records. See Fla. R. Crim. P. 3.852. We find that the court did not abuse its discretion. See Diaz v. State, 945 So. 2d 1136, 1149 (Fla. 2006) ("In reviewing the trial court's denial of . . . public records requests, this Court applies the abuse of discretion standard." (citation omitted)).

Accordingly, we affirm the trial court's order summarily denying relief on Kearsse's successive postconviction motion and denying his request for additional public records.

QUINCE, C.J., and PARIENTE, LEWIS, CANADY, POLSTON, LABARGA, and PERRY, JJ., concur.

A True Copy

Test:



Thomas D. Hall
Clerk, Supreme Court



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Served:

RYAN LEWIS BUTLER
CHRISTINA L. SPUDEAS
HON. JOSEPH E. SMITH, CLERK

PAUL EDWARD KALIL
LESLIE CAMPBELL
HON. DAN VAUGHAN, JUDGE