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Federal Judge Rules That a Former Mississippi Prosecutor, Now a Judge, Lied in Court

Radley Balko | September 14, 2010

This week, Federal District Court Judge Michael Mills ordered a new sentencing trial for convicted murderer Quintez Hodges this week. Hodges is currently on death row in Mississippi.

But it's Mills' reason for ordering a new trial that comes as a surprise: Mills ruled that former Mississippi Assistant District Attorney James Kitchens, Jr. lied under oath during Hodges' trial.

The facts are a bit complicated, but in brief, Kitchens was involved in a prior prosecution of Hodges for robbery. At Hodges' death penalty trial, Kitchens testified that Hodges was given a break in that case. It was part of the prosecutions effort to show a lack of remorse and criminal history as aggravating factors deserving of the death penalty. Mills ruled that Kitchens lied under oath when he testified that the victim of the earlier robbery asked at the time that Hodges be given a light sentence. Mills found that Kitchens then lied again in Mills' court during a hearing on Hodges' post-conviction petition.

From Mills' ruling:

The testimony of Mr. Kitchens at Petitioner's trial and in this Court is factually at odds with what is contained in the record, and DA Allgood should have known that the testimony given by ADA Kitchens was false...

The Court determines that the State court reached a decision based upon an unreasonable determination of facts and involving an unreasonable application of clearly established federal law. Petitioner presented the State court with evidence to demonstrate that the testimony given at his capital murder trial was false, and that the prosecution should have known it was false. He has also shown that there exists a reasonable likelihood that the jury's verdict might have been affected as a result of the false testimony. In this instance, the State, seemingly unconcerned with the accuracy of the testimony to be given in a trial where the result could be death, provided the jury with false information.

Kitchens is now a circuit judge for Mississippi's 16th Judicial District.

Reason regulars will also recognize "DA Allgood" as District Attorney Forrest Allgood, the

Mississippi prosecutor whose name has graced this site due to his copious use of disgraced forensic specialists Steven Hayne and Michael West, his murder convictions of two men later exonerated by DNA evidence, his prosecution of Tyler Edmonds, and, most recently, his use of Hayne and West in winning a murder conviction for Eddie Lee Howard. That Allgood would provide a jury with false information in a murder case isn't terribly surprising. He's done it before, and with far more outrageous results. But it's nice to see this come from a federal judge, and a fairly conservative one at that.

It will be interesting to see if Kitchens or Allgood face any legal or professional sanction from this.

(Via NMiss Commentor)