

Jill Clark

From: bounce-4067202-4695643@lists.statebar.gen.mn.us on behalf of MSBA Court Opinions <mco@statebar.gen.mn.us>
Sent: Wednesday, August 22, 2012 1:23 PM
To: msba-crim
Subject: 6th AM | EV - no error re no evid hearing for ineff assistance claim; but error in fail to hear on newly discovd evid claim
Attachments: OPA110070-0822.rtf

In Minnesota Supreme Court
A11-0070
A11-1671
De-Aunteze Lavion Bobo, Appellant, vs. State of Minnesota, Respondent.
Hennepin County.

Court's syllabus:

1. The postconviction court did not err when it failed to hold an evidentiary hearing on appellant's ineffective-assistance-of-appellate-counsel claim because appellant failed to allege facts that, if proven by a fair preponderance of the evidence, would satisfy the first prong of the Strickland test.
2. The postconviction court erred when it failed to hold an evidentiary hearing on appellant's newly discovered evidence claim because the record does not conclusively establish that appellant failed to allege facts that, if proven by a fair preponderance of the evidence, could satisfy the Rainer test.

Affirmed in part, reversed in part, and remanded. Chief Justice Lorie S. Gildea.
Concurring in part, dissenting in part, Justices David R. Stras and Christopher J. Dietzen.

MSBA Court Opinions by Email
a Minnesota State Bar Association
member service

You are subscribed to msba-crim as:
jill@jillclarkllc.com.
You can unsubscribe by sending a blank email to
<leave-msba-crim@lists.statebar.gen.mn.us>.

