Capital Defense Journal

Volume 5 | Issue 1 Article 12

Fall 9-1-1992

IN RE BLODGETT 112 S. Ct. 674 (1992)

Follow this and additional works at: https://scholarlycommons.law.wlu.edu/wlucdj

 Part of the Law Enforcement and Corrections Commons

Recommended Citation
IN RE BLODGETT 112 S. Ct. 674 (1992), 5 Cap. Def. Dig. 22 (1992).
Available at: https://scholarlycommons.law.wlu.edu/wlucdj/vol5/iss1/12

This Casenote, U.S. Supreme Ct. is brought to you for free and open access by the Law School Journals at Washington and Lee University School of Law Scholarly Commons. It has been accepted for inclusion in Capital Defense Journal by an authorized editor of Washington and Lee University School of Law Scholarly Commons. For more information, please contact christensena@wlu.edu.

IN RE BLODGETT

112 S. Ct. 674 (1992)
United States Supreme Court

FACTS

In 1982, a Washington jury convicted Charles Rodman Campbell of multiple murders and sentenced him to death. Direct appeals,[1] a state habeas petition, and a federal habeas petition[2] all failed to provide any relief to Campbell. After Campbell filed a second federal habeas petition in the United States District Court for the Western District of Washington in 1989, the district court held a hearing and issued a written opinion denying a stay or other relief to the defendant.

On March 28, 1989, Campbell appealed to the United States Court of Appeals for the Ninth Circuit. The Court of Appeals subsequently granted an indefinite stay of execution and set a briefing schedule. The case was argued in June 1989, but no decision was forthcoming. The stay of execution remained in effect.

As a result of the delay, the Attorney General of Washington sent letters to the Court of Appeals panel in both April and October of 1990 requesting a status report on the case. Neither letter was answered.

In July 1990, Campbell filed a third action for collateral relief in the form of a personal restraint petition in state court. On March 21, 1991, the Washington Supreme Court denied Campbell's petition on its merits.

At this point, Campbell stated that he desired to discharge his attorney and proceed *pro se* and stated that he would file a third federal habeas petition in the Ninth Circuit Court of Appeals. Two months later, the Court of Appeals panel granted the discharge motion to relieve counsel, directed Campbell to file his third habeas petition by August 30, and announced that it intended to wait for the district court's ruling before taking further action.[3]

As a result of the delays, the Washington Attorney General filed a mandamus petition with the United States Supreme Court that would have required the Court of Appeals to consider Blodgett's appeal from denial of his second petition for writ of habeas corpus. The Court of Appeals filed a response giving no apparent reason for the panel's delay in the deciding the case, but did state that the delay occurred, in part, because the Ninth Circuit had not wanted to make a decision on the appeal until the state court handed down its decision. The appeals court reasoned that if the Washington court had granted the state petition for relief, the federal case would have become moot. The response also stated that the court wished to avoid piecemeal appeals by waiting for the district court's decision on the third federal habeas petition. Finally, the responding appeals panel noted that the Ninth Circuit had formed a Death Penalty Task Force in order to eliminate successive habeas petitions and that the consolidation of the last two petitions was consistent with the goals of the task force.

The issue before the Supreme Court was whether the State of Washington was entitled to a writ of mandamus that would force the Court of Appeals to immediately consider Blodgett's second habeas corpus appeal.

HOLDING

The Supreme Court denied the state's mandamus request.[4] The Court held that the state should have asked the Court of Appeals to vacate or modify its 1991 order before proceeding to the United States Supreme Court with its request.[5] However, the Court in *Blodgett* took a strong position on stays of executions and "explicitly" held that "[i]n a capital case the grant of a stay of execution directed to a State by a federal court imposes on that court the concomitant duty to take all steps necessary to ensure a prompt resolution of the matter, consistent with its duty to give full and fair consideration to all of the issues presented in the case."[6]

ANALYSIS/APPLICATION IN VIRGINIA

The *Blodgett* decision sends a clear message that the Supreme Court is becoming increasingly impatient with habeas delays. The opinion's strong language suggests that the Court is growing weary of lower courts that allow protracted collateral proceedings in death penalty cases and will no longer tolerate long or indiscriminate stays of execution.

The Court stated that "none of the reasons offered in the response [from the Court of Appeals] dispels our concern that the State of Washington has sustained severe prejudice by the two-and-a-half-year stay of execution."[7] In addition, the Court held that the "stay has prevented Washington from exercising its sovereign power to enforce the criminal law, an interest we found of great weight in *McCleskey v. Zant* when discussing the importance of finality in the context of federal habeas corpus proceedings."[8]

Finally, upon denying the State's mandamus relief, the Supreme Court issued the Court of Appeals a clear and indisputable warning: "In view of the delay that has already occurred any further postponements or extensions of time will be subject to a **most rigorous scrutiny** in this Court if the State of Washington files a further meritorious petition for relief."[9] While the warning language in *Blodgett* is, in fact, *dicta* and specific to Blodgett's case, it undeniably communicates that the Supreme Court will no longer tolerate extended collateral proceedings.

An exclamation point was added to the Supreme Court's message of impatience in several recent cases. In *Madden v. Texas*,[10] Justice Scalia issued a chilling warning that there will be few extensions to the 90-day time limit for certiorari review. In his opinion he stated that "[a]ll of these are capital cases. That class of case has not, however, been made a generic exception to the 90-day time limit . . . ."[11] He further asserted that "[t]here is even greater need to reject such an automatic rule [of extension] in capital cases than there is elsewhere, since no lawyer should be burdened with the knowledge that, if he were only to withdraw from the case, his client's appeal could be lengthened and the execution of sentence, in all likelihood, deferred."[12]

Similarly, the court in *Vasquez v. Harris*[13] issued an unprecedented

---

1 *Campbell v. Washington*, 471 U.S. 1094 (1985).
2 *Campbell v. Kincheloe*, 488 U.S. 948 (1988).
3 *Campbell v. Blodgett*, 940 F.2d 549 (9th Cir. 1991).
4 *In re Blodgett*, 112 S.Ct. 674, 677 (1992).
5 *Id.*
6 *Id.* at 676.
7 *Id.*
8 *Id.* (citing *McCleskey v. Zant*, 111 S.Ct. 1454 (1991)). *See* case summary of *McKleskey*, Capital Defense Digest, Vol.4, No.1, p.7 (1991).
9 *Id.* at 677 (emphasis added).
10 111 S.Ct. 902, 905 (1991).
11 *Id.*
12 *Id.*
13 112 S.Ct. 1713 (1992).

two sentence opinion ordering that the current stay of execution entered by the United States Court of Appeals in that case be vacated. The final sentence of the decision simply states that, "[n]o further stays of Robert Alton Harris' execution shall be entered by the federal courts except upon order of this Court."[14] This decision, again, reflects the growing impatience of the Court. It is becoming more and more apparent that the United States Supreme Court is no longer going to tolerate extensive and lengthy appeals in capital cases.

Although these opinions are directed more toward the courts than attorneys, it is important to bear in mind the increasing lack of patience that the current Supreme Court is exhibiting.[15] The new "tone" of the Supreme Court regarding the granting of stays has the potential to drastically increase the execution rate in Virginia. Attorneys must not depend on last-minute stays of execution nor count on cases drifting through the circuit courts for extended periods of time. Instead, attorneys must aggressively pursue all potential claims at every step of the process and ensure that they are fully presented. There will be few, if any, second chances.

Summary and analysis by:
Lesley Meredith James

[14] *Id.* The stay being vacated was the last in a series of stays given by the Ninth Circuit during the night leading up to Harris' execution the next morning.

[15] The United States Court of Appeals for Fourth Circuit has demonstrated similar impatience in the area of administrative delays. *See Spann v. Martin*, 963 F.2d 663 (1992). *See* case summary of *Spann*, Capital Defense Digest, this issue.

WILLIAMS v. DIXON

961 F.2d 448 (4th Cir. 1992)
United States Court of Appeals, Fourth Circuit

FACTS

Douglas Williams, Jr. was arrested on August 2, 1981 and charged with the murder of one-hundred year old Adah Herndon Dawson. Under the influence of drugs and alcohol, Williams had entered the Dawson home looking for a place to sleep. When Dawson surprised him in the kitchen, Williams struck her with a stick he had picked up on the porch. He laid her on the floor and proceeded to ransack the house. He then returned to the kitchen and forced a mop handle into Dawson's vagina.

During the guilt phase of the trial, the medical examiner testified that Dawson suffered numerous lacerations to her head, neck, arms, vagina and rectum, together with fractures of the face, skull, pubic bone and hip bone. The medical examiner further testified that Dawson died as a result of the multiple injuries.

Williams offered no evidence at the guilt phase of trial. The jury found him guilty under North Carolina law of first degree murder in the perpetration of first degree burglary, in the perpetration of a sex offense, and with malice, premeditation and deliberation.

At the sentencing phase, the state relied upon the evidence presented at the guilt phase, as well as a written psychological report finding that Williams did not suffer any mental defect or disorder which would have prevented him from distinguishing right from wrong at the time of the killing. The report further concluded that intoxication would not have relieved Williams of responsibility for the crime. Williams introduced evidence of his past criminal record, as well as evidence that he was mildly retarded, with poor reading skills and possible organic brain impairment.

Based upon the evidence presented during the sentencing phase, the jury was presented with four possible aggravating factors and five possible mitigating factors. The jury was instructed that it could consider the mitigating factors **only** if they **unanimously** agreed to do so. After the sentencing phase, the jury returned a recommendation for a sentence of death, and the judge sentenced Williams to death.

The North Carolina Supreme Court upheld Williams' conviction on appeal.[1] The United States Supreme Court denied both certiorari and a request for rehearing.[2] In May 1984, Williams filed a state habeas petition. The state court denied the request in June, 1985, and the North Carolina Supreme Court denied review. On October 13, 1987, Williams filed a Petition for Writ of Habeas Corpus in the United States District Court for the Eastern District of North Carolina. The judge denied the petition without a hearing.

Williams appealed to the Fourth Circuit Court of Appeals arguing, among other issues, that the sentencing instruction requiring unanimity for considering mitigating factors was unconstitutional.[3]

HOLDING

The Fourth Circuit affirmed Williams' conviction for first degree murder.[4] However, relying upon the United States Supreme Court's ruling in *McKoy v. North Carolina*,[5] the court found that "the unanimity requirement [regarding mitigating circumstances] given to the jury at Williams' sentencing proceedings . . . was unconstitutional."[6] Because the court further found that Williams' claim was not barred by the Supreme Court's general ban on retroactive application of new rules to habeas corpus claims in *Teague v. Lane*[7], the court vacated Williams' sentence and remanded the case to the district court.[8]

The Fourth Circuit also established a second, independent reason for vacating Williams' death sentence. Concluding that "*Teague*'s

[1] *State v. Williams*, 301 S.E.2d 335, 338 (1983).

[2] *Williams v. North Carolina*, 464 U.S. 865 (1983), *reh'g denied*, 464 U.S. 1004 (1983).

[3] Williams also argued that (1) the constitution prohibits the imposition of the death penalty upon a mildly retarded defendant; (2) he received ineffective assistance of counsel; and (3) the evidence was insufficient to support the verdict. These issues will not be addressed in this summary.

[4] *Williams v. Dixon*, 961 F.2d 448 (4th Cir. 1992).

[5] 494 U.S. 433 (1990). In *McKoy*, the court struck down a jury instruction requiring unanimity for considering mitigating circumstances during penalty phase deliberations as unconstitutional.

[6] *Williams*, 961 F.2d at 452.

[7] 489 U.S. 288 (1989).

[8] *Williams*, 961 F.2d at 450.