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Goins v. Angelone 226 F.3d 312 (4th Cir. 2000)

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I. Facts

On October 14, 1994, Christopher Goins ("Goins") and Barry Scott ("Scott") went to the home of fourteen-year-old Tamika Jones ("Jones"), who was seven months pregnant with Goins's child. Scott attempted to show Goins an ultrasound photograph of his unborn child, and he became angry. Goins proceeded to shoot all of the members of Jones's family, killing her parents, her four-year-old brother, her nine-year-old sister, and her three-year-old brother. Goins also shot Jones nine times. Her twenty-one-month-old sister, Kenya, was shot once. Neither Jones nor Kenya were killed, but Jones's injuries necessitated a hysterectomy and resulted in the termination of her pregnancy.[1]

Approximately one month after the shooting, Goins was arrested in New York. On June 13, 1995, a jury convicted Goins on one count of capital murder, four counts of first-degree murder, two counts of malicious wounding and seven counts of illegal use of a firearm. The jury sentenced him to death for the capital murder charge, and to four life terms plus seventy-eight years for the non-capital offenses.[2]

The Supreme Court of Virginia affirmed the conviction and sentence.[3] The United States Supreme Court denied Goins's petition for a writ of certiorari.[4] Goins then filed a habeas corpus petition in the Supreme Court of Virginia, which was dismissed.[5] The Circuit Court scheduled Goins's execution for September 15, 1997 and on September 5, 1997, Goins sought a stay of execution and appointment of counsel to prepare a federal habeas petition.[6] The district court granted these requests.[7] Goins then filed a petition for federal habeas relief on thirty-six separate grounds, which the district court denied in turn.[8]

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1. Goins v. Angelone, 226 F.3d 312, 315-16 (4th Cir. 2000) (quoting Goins v. Commonwealth, 470 S.E.2d 114, 119-22 (Va. 1996)).
2. *Id.* at 317-19.
3. *Id.* at 319; *see Goins*, 470 S.E.2d at 132.
4. *Goins*, 226 F.3d at 319; *see* Goins v. Virginia, 519 U.S. 887 (1996).
5. *Goins*, 226 F.3d at 319.
6. *Id.*
7. *Id.*
8. *Id.*; *see* Goins v. Angelone, 52 F. Supp. 2d 638, 649-81 (E.D. Va. 1999).

Goins made the following assertions on appeal to the United States Court of Appeals for the Fourth Circuit:[9] (1) the district court erred in failing to allow voir dire questions regarding racial bias;[10] (2) the court erred in denying his motion to voir dire prospective jurors individually;[11] and (3) his counsel failed to attempt a second change of venue after the first motion resulted in a venue that produced a predominantly white jury.[12]

II. Holding

The Fourth Circuit denied a certificate of appealability and dismissed Goins's appeal.[13]

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9. *Goins*, 226 F.3d at 319. Because several of Goins's claims were summarily dismissed by the court and failed to raise significant issues, they will not be discussed in detail in this note. First, Goins contended that the prosecution, in violation of *Brady*, failed to reveal the results of a polygraph examination administered to Scott, a friend, whom the defense posited committed the murders. *Id.* at 325; *see* Brady v. Maryland, 373 U.S. 83, 87 (1963) (holding that exculpatory evidence must be disclosed to defense counsel). The Fourth Circuit rejected this claim because there was no basis to conclude that the results of the polygraph were favorable to the defendant or that disclosure would have had any direct impact on the trial. *Goins*, 226 F.3d at 325.

Goins also claimed ineffective assistance of counsel on several grounds. *Id.* at 327. The court denied relief on each ground because Goins could not establish that counsel's performance was unreasonable, or that it prejudiced the trial or the sentencing. *Id.*

Next, Goins contended that the district court erred in denying his motions for discovery and an evidentiary hearing. *Id.* at 328. The court dismissed this claim because Goins failed to allege facts that, if true, would warrant an evidentiary hearing. *Id.*

Finally, Goins argued that he was improperly excluded from bench conferences during the guilt phase of the trial. *Id.* at 327. The Supreme Court of Virginia held this claim to be procedurally defaulted because Goins failed to raise the issue during trial or on direct appeal. *Id.*; *see* Slayton v. Parrigan, 205 S.E.2d 680, 682 (Va. 1974) (prohibiting state habeas review of claims that were available to petitioner at trial or on direct appeal, if petitioner failed to raise them at that time). Goins failed to show that there was "cause for, and actual prejudice from, the default" or that the "failure to review the claim would result in a fundamental miscarriage of justice." *Goins*, 226 F.3d at 328 (citing Coleman v. Thompson, 501 U.S. 722, 749-50 (1991) (barring federal habeas review unless petitioner can show that (1) there is cause for, and actual prejudice from, the default; or (2) the failure to review the claim would result in a fundamental miscarriage of justice)). The Fourth Circuit affirmed the district court's dismissal of this claim. *Goins*, 226 F.3d at 328.

Goins also asserted that evidence of his parole eligibility was erroneously excluded during voir dire and sentencing. *Id.* at 326. For a discussion of the court's treatment of this claim, see Christina S. Pignatelli, Case Note, 13 CAP. DEF. J.403 (2001) (analyzing parole ineligibility in Goins and in Bacon v. Lee, 225 F.3d 470 (4th Cir. 2000)).

10. *Goins*, 226 F.3d at 320-24.

11. *Id.* at 324-25.

12. *Id.* at 322 n.4, 327.

13. *Id.* at 319.

III. Analysis / Application in Virginia

A. Voir Dire Regarding Racial Bias

Goins argued that he should have been allowed to ask the following two questions during voir dire: (1) "Have you ever experienced fear of a person of another race? If so, what were the circumstances?" and (2) "Do you think that African-Americans are more likely to commit crimes that whites? If so, why?"[14] The trial court did not permit these inquiries and Goins claimed that this refusal was error because "they were relevant to establishing relationship, interest, opinion or prejudice."[15] The Supreme Court of Virginia found that the trial court properly used its discretion in determining appropriate questions for voir dire and, thus, did not violate Goins's rights.[16] The Fourth Circuit upheld this adjudication on the merits because the state court's determination was not "contrary to," nor did it involve "unreasonable application of clearly established federal law."[17]

The Fourth Circuit pointed out that voir dire is carried out in the discretion of the trial judge, who should determine which questions are appropriate for revealing prejudices.[18] However, the court also noted that trial courts are constitutionally required to allow a defendant to ask questions regarding racial prejudice when "special circumstances" indicate that racial issues are "inextricably bound up with the conduct of the trial."[19] The question is whether the facts of a case demonstrate a "constitutionally significant likelihood that, absent questioning about racial prejudice, the jurors would not be as 'indifferent as [they stand] unsworne.'"[20]

The Fourth Circuit then looked at three Supreme Court cases to determine what constitutes such "special circumstances."[21] In *Ristaino v. Ross*,[22] the defendant, an African-American, was charged with a violent crime against a Caucasian.[23] The Court concluded that these facts did not

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14. *Id.* at 320.

15. *Id.* (quoting *Goins*, 470 S.E.2d at 124-25).

16. *Id.*

17. *Id.* at 324; *see* Anti-Terrorism and Effective Death Penalty Act, Pub. L. No. 104-132, § 104, 110 Stat. 1214, 1218-19 (1996) (codified as amended at 28 U.S.C. § 2254 (Supp. III 1997)) (mandating that adjudication on the merits may not be overturned on federal habeas review unless the state court's determination "was contrary to, or involved an unreasonable application of, clearly established federal law, as determined by the United States Supreme Court").

18. *Goins*, 226 F.3d at 321 (citing United States v. Barber, 80 F.3d 964, 967 (4th Cir. 1996) (en banc)).

19. *Id.* (citing Ristaino v. Ross, 424 U.S. 589, 597 (1976)).

20. *Id.* (citing *Ristaino*, 424 U.S. at 596).

21. *Id.* at 321-22.

22. 424 U.S. 589 (1976).

23. *Goins*, 226 F.3d at 321; *see* Ristaino v. Ross, 424 U.S. 589, 597 (1976) (stating that commission of violent crime by an African-American against a Caucasian did not rise to the level of "special circumstances" requiring racial questions during voir dire).

"create a . . . need of constitutional dimensions" to voir dire potential jurors about racial bias.[24] In contrast, the Court in *Ham v. South Carolina*[25] found that when an African-American man charged with possession of marijuana claimed that he was framed by law enforcement officers because of his participation in civil rights activities, the "special circumstances" test was met and the racial issues present were "inextricably bound up with the conduct of the trial."[26]

In *Turner v. Murray*,[27] an interracial murder resulted in a capital trial.[28] Here, the Supreme Court diverged from its holding in *Ristaino* and concluded that the trial court is "constitutionally required to permit voir dire" regarding racial prejudices because "capital sentencing proceedings require jurors to make a 'highly subjective, unique, individualized judgment regarding the punishment that a particular person deserves.'"[29] The *Turner* Court also noted that the danger of racial bias when the result is so final makes the capital sentencing process "especially serious."[30]

Goins asserted that such "special circumstances" existed in his trial and that racial issues were "inextricably bound up with the conduct of the trial."[31] Namely, Goins argued that his predominantly white jury raised such racial issues.[32] The Fourth Circuit rejected this argument pointing out that there is "no constitutional presumption of juror bias for or against members of any particular racial or ethnic group."[33] The court further distinguished this case from *Turner* by noting that *Turner* involved interracial bias.[34] In Goins's case, both he and his victims were African-Americans.[35] The Fourth Circuit went further at this point and said that no Supreme Court or Fourth Circuit decision has required "that capital defendants accused of crimes against victims of their own race have a right to question prospective jurors on the issue of racial bias."[36]

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24. *Goins*, 226 F.3d at 321-22.

25. 409 U.S. 524 (1973).

26. *Goins*, 226 F.3d at 321-22; *see* Ham v. South Carolina, 409 U.S. 524, 527 (1973) (mandating voir dire about racial biases when defendant claimed to be framed for his civil rights participation).

27. 476 U.S. 28 (1986).

28. *Goins*, 226 F.3d at 322; *see* Turner v. Murray, 476 U.S. 28, 36-37 (1986) (requiring voir dire regarding racial bias in a capital trial when the defendant and victim are of different races).

29. *Goins*, 226 F.3d at 322 (citing *Turner*, 476 U.S. at 33-34).

30. *Id.*

31. *Id.*

32. *Id.*

33. *Id.* at 323 (citation omitted in original).

34. *Id.*

35. *Id.*

36. *Id.* (citing Goins v. Angelone, 52 F. Supp. 2d at 671).

B. Constitutional and Non-Constitutional Rules

While the Fourth Circuit denied Goins the right to ask race-based voir dire questions, practitioners should note that the court agreed that "the wiser course generally is to propound appropriate questions designed to identify racial prejudice if requested by the defendant."[37] Additionally, the Supreme Court, using its supervisory authority over federal courts, has required lower federal courts to permit voir dire questions designed to ferret out racial bias even when not constitutionally required to do so.[38] Specifically, the Supreme Court in *Rosales-Lopez v. United States*[39] stated that a federal district court's "[f]ailure to honor [a defendant's] request [to examine the racial prejudices of potential jurors] . . . will be reversible error only where the circumstances of the case indicate that there is a reasonable possibility that racial or ethnic prejudice might have influenced the jury."[40]

This "nonconstitutional" standard is triggered when a defendant demonstrates a "reasonable possibility" that racial bias might influence the jury.[41] This is a considerably lower bar than what is necessary to trigger the constitutional standard: a "significant likelihood" that racial prejudice might infect the proceedings.[42] In *Goins*, the court rejected the non-constitutional framework noting that a state trial court is not bound by it.[43] In absence of "special circumstances" that trigger the constitutional right to inquire into racial bias, voir dire examination lies in the discretion of the trial judge.[44] Thus, Goins was not constitutionally entitled to ask race-based questions during voir dire.[45]

C. Individualized Voir Dire

Goins next contended that the trial court failed to select an impartial jury because it refused his request to voir dire potential jurors individually.[46] Goins argued that pretrial publicity made it necessary to voir dire individu-

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37. *Id.* at 323-24 (citing Ristaino v. Ross, 424 U.S. 589, 597 n.9).

38. *Id.* at 324 (citing *Ristaino*, 424 U.S. at 597 n.9).

39. 451 U.S. 182 (1981) (plurality).

40. *See Goins*, 226 F.3d at 324 (citing Rosales-Lopez v. United States, 451 U.S. 182, 191 (1981) (plurality)).

41. *Id.* at 324 n.6 (citing *Rosales-Lopez*, 451 U.S. at 191).

42. *Id.* (citing *Ristaino*, 424 U.S. at 598).

43. *Id.* at 324; *see* Dickerson v. United States, 120 S.Ct. 2326, 2333 (2000) (establishing that with respect to state courts, the Supreme Court's authority is limited to enforcing the Constitution).

44. *Goins*, 226 F.3d at 324.

45. *Id.*

46. *Id.* at 324-25.

ally potential jurors.[47] The court looked at *United States v. Hankish*,[48] which required federal district judges to examine individually those jurors who were exposed to prejudicial pretrial publicity to determine the extent of that exposure.[49] The Fourth Circuit dismissed Goins's claim because this safeguard is not constitutionally required of the state courts.[50]

D. Change of Venue

Goins received a change of venue from the trial court pursuant to his request.[51] The jury was then selected from predominantly white Gloucester County.[52] In his state habeas petition, Goins contended that this county's venire denied him the right to a fair trial and an impartial jury.[53] The Supreme Court of Virginia found that this claim was procedurally defaulted because Goins failed to raise the issue at trial or on direct appeal.[54] The Fourth Circuit ruled that this claim was barred unless Goins could "show that: (1) there is cause for, and actual prejudice from, the default; or (2) that failure to review the claim would result in a fundamental miscarriage of justice."[55] The Fourth Circuit decided that Goins made neither showing.[56] Defense counsel should be aware of the importance of raising all claims during trial and on direct appeal in order to preserve appellate issues.[57]

Goins alternately asserted an ineffective assistance of counsel claim for his attorney's "aquiesc[ence] to the trial court's selection of a group of jurors with little understanding or exposure to the type of environment [he] was

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47. *Id.* at 325.

48. 502 F.2d 71 (4th Cir. 1974).

49. *Goins*, 226 F.3d at 325; *see* United States v. Hankish, 502 F.2d 71, 77 (4th Cir. 1974) (requiring that in federal court, if the trial judge determines that a member of the jury pool has been exposed to prejudicial pretrial publicity, that juror must be examined individually to determine the effect of the publicity) (internal citation omitted).

50. *Goins*, 226 F.3d at 325.

51. *Id.* at 322 n.4.

52. *Id.*

53. *Id.*

54. *Id.*; *see* Slayton v. Parrigan, 205 S.E.2d 680, 682 (Va. 1974) (prohibiting state habeas review of claims that were available at trial or on direct appeal and that petitioner failed to raise at that time).

55. *Goins*, 226 F.3d at 322 n.4; *see* Coleman v. Thompson, 501 U.S. 722, 750 (1991) (barring federal review of defaulted claims unless there is cause for, and actual prejudice from, the default; or the failure to review the claim would result in a fundamental miscarriage of justice).

56. *Goins*, 226 F.3d at 322 n.4.

57. Objections must be timely, raised on direct appeal, rely on all possible grounds, and rely on the same set of facts in order to be preserved properly for appeal in subsequent state and federal proceedings. *See generally* Matthew K. Mahoney, *Bridging the Procedural Default Chasm*, 12 CAP. DEF. J. 305 (2000) (suggesting method by which defense counsel can "make record" and avoid procedural default).

from."[58] The Fourth Circuit rejected this claim because Goins failed to show that his counsel's performance fell below an objective standard of reasonableness, or that it prejudiced the trial or sentencing.[59]

E. Epilogue

On December 6, 2000, Christopher Goins was executed by lethal injection.[60] The United States Supreme Court rejected his appeal and request for a stay of execution that morning.[61] Virginia Governor Jim Gilmore denied Goins's request for executive clemency two hours prior to the execution.[62]

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58. *Goins*, 226 F.3d at 327.
59. *Id.*
60. Frank Green, *Injection Ends Life of Goins*, RICH. TIMES-DISPATCH, Dec. 7, 2000, at A1.
61. *Id.* at A22.
62. *Id.*