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Beck v. Angelone 261 F.3d 377 (4th Cir. 2001)

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I. Facts

On June 5, 1995, Christopher James Beck ("Beck") traveled from Philadelphia to Arlington County with a preconceived plan to kill his former employer William Miller ("Miller"). When he arrived at the home shared by Miller, Florence Marks ("Marks") and David Kaplan ("Kaplan"), he broke in through a basement window. He took a .22 caliber semi-automatic pistol from Miller's apartment and lay in wait in the basement. After waiting for several hours, Beck heard someone entering the basement. He raised the gun, closed his eyes and fired two shots as the door opened. When he opened his eyes, he saw Marks lying dead. Beck later told police that after shooting Marks, he stabbed her in the right buttock and penetrated her vagina with the handle of a hammer to make it appear that Marks had been raped.[1]

About an hour after Beck killed Marks, Miller returned home. Beck, hiding on the stairs leading to the second floor, shot Miller five times and killed him. Beck then covered the body with a blanket and placed it in Kaplan's apartment. Kaplan later returned to find Beck in his apartment with a gun in his hand and Miller's body lying on the floor. Beck then shot Kaplan in the back of the head, but did not kill him. As Kaplan lay on the floor talking to Beck, Beck fired several more rounds at Kaplan, then stabbed him in the head. After killing Kaplan, Beck stole some cash, several guns, two bicycles and Miller's gun and car, and left the scene. Once he returned to Pennsylvania, he wiped the car to remove fingerprints and abandoned it.[2]

When Arlington County Police first interviewed Beck, he claimed that he was transporting bicycles from Tennessee at the time. When his alibi could not be corroborated, Beck confessed to all three murders. An Arlington County grand jury indicted Beck for capital murder in the death of each of the three victims.[3] Later, the grand jury added charges of rape and capital murder during the commission of rape in the death of Marks. After the trial court denied Beck's motion to suppress the statements he made to police, Beck pleaded guilty to all counts and the trial court accepted the guilty plea. The trial court then heard

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1. Beck v. Angelone, 261 F.3d 377, 380-81 (4th Cir. 2001).

2. *Id.* at 381-82.

3. *Id.* at 382; *see also* VA. CODE ANN. § 18.2-31(4) (Michie Supp. 2001) (defining capital murder as "the willful, deliberate, and premeditated killing of any person in the commission of robbery or attempted robbery"); VA. CODE ANN. § 18.2-31(7) (Michie Supp. 2001) (defining capital murder as "the willful, deliberate and premeditated killing of more than one person as a part of the same act or transaction").

evidence of aggravation and mitigation at the sentencing phase; after finding future dangerousness and vileness, the trial judge sentenced Beck to death for each of the capital murder counts and to four life terms plus fifty-three years in prison for the non-capital counts.[4]

After his direct appeal and petition for state habeas corpus review in the Supreme Court of Virginia failed, Beck petitioned for a writ of habeas corpus in the United States District Court for the Eastern District of Virginia. Beck's habeas petition claimed that the Commonwealth failed to prove all elements of its case beyond a reasonable doubt, that his guilty plea was constitutionally flawed, that the trial court failed to consider his psychiatric condition, that he was incompetent to participate in the proceedings, and that he received ineffective assistance of counsel. On September 27, 2000, the district court dismissed Beck's habeas petition. On November 28, 2000, Beck noted an appeal in the United States Court of Appeals for the Fourth Circuit; in March of 2001 he applied to the same court for a certificate of appealability.[5]

II. Holding

The Fourth Circuit held that Beck was not entitled to a certificate of appealability because he failed to make a substantial showing of the denial of a constitutional right.[6]

III. Analysis / Application in Virginia

A. Certificate of Appealability

The standard for the certificate of appealability applied by the Fourth Circuit was first articulated by the United States Supreme Court in *Slack v McDaniel*.[7] The Court in *Slack* held that in cases in which the district court has dismissed the habeas petition on procedural grounds, the petitioner is entitled to a certificate of appealability if reasonable jurists could differ as to whether the petition states a valid constitutional claim and if reasonable jurists could debate the propriety of the district court's procedural ruling.[8] Because the district court dismissed Beck's petition on the grounds that his claims were procedurally barred, the Fourth Circuit held Beck to a standard requiring him to establish that not only could reasonable jurists debate whether the petition stated the denial of

4. *Beck*, 261 F.3d at 383.

5. *Id.* at 384-86.

6. *Id.* at 380; *see* 28 U.S.C. § 2253(c) (Supp. V 1999) (providing, in pertinent part, that appeal of final order in habeas proceeding arising from state court may not proceed unless court of appeals has issued certificate of appealability that petitioner "has made a substantial showing of the denial of a constitutional right").

7. Slack v. McDaniel, 529 U.S. 473 (2000).

8. *Id.* at 484.

a valid constitutional right, but also that reasonable jurists could debate whether the district court ruled correctly on the procedural issue.[9]

The Fourth Circuit ruled first on Beck's substantive claim–that he was incompetent to appear in court to plead guilty and to participate in his sentencing hearing.[10] The court reviewed the statements Beck made to police, the record in the trial court, and the statements of mental health experts from both sides in reaching the conclusion that Beck had not met his burden in establishing the existence of a valid constitutional claim.[11] As Beck failed to establish a valid constitutional claim, the court did not address the procedural question.[12]

The certificate of appealability is the prerequisite to appellate review of a final order in a habeas corpus petition arising from a state proceeding.[13] A federal court may only grant a writ of habeas corpus if the petitioner has established that the final judgment in the state court resulted in a decision "contrary to, or [involving] an unreasonable application of clearly established Federal law."[14] While the Fourth Circuit stated that the standard applied merely required Beck to show that his petition stated a "valid claim of the denial of a constitutional right;" the analysis of the Fourth Circuit establishing that Beck had failed to meet his burden under *Slack* resembled an adjudication of Beck's claims on the merits.[15]

B. Procedural and Substantive Competency

In determining that Beck was not entitled to a certificate of appealability, the Fourth Circuit fully considered the merits of Beck's substantive competency claims based on his assertion that he was incompetent to plead guilty to capital murder and that he was incompetent to appear at his sentencing hearing.[16] The court explained that a defendant may make not only a substantive competency claim considering whether he was in fact incompetent during the pendency of the proceedings, but he also may raise the procedural competency claim as to whether the trial court permitted the proceedings to advance in spite of facts raising a genuine doubt as to Beck's competency to participate.[17] The substantive inquiry must consider whether the petitioner showed by a preponderance of the evidence that he was in fact incompetent to stand trial; by comparison, the

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9. *Beck*, 261 F.3d at 387 (citing *Slack*, 529 U.S. at 484).

10. *Id.* at 385 n.10, 387. The court followed *Slack* in beginning its analysis with "'the issue whose answer is more apparent from the record and arguments.'" *Id.* at 387 (citing *Slack*, 529 U.S. at 485).

11. *Id.* at 388-92.

12. *Id.* at 392 n.14.

13. 28 U.S.C. § 2253(c)(1)(A) (Supp. V 1999).

14. 28 U.S.C. § 2254(d)(1) (Supp. V 1999).

15. *Beck*, 261 F.3d at 387.

16. *Id.* at 388-92.

17. *Id.* at 387-88.

procedural inquiry requires only proof of facts sufficient to raise a doubt as to competency.[18]

The Fourth Circuit denied Beck's request for the certificate of appealability because there was "no doubt that Beck was competent to appear in court to plead guilty... and at the sentencing phase of his case."[19] The court first determined that Beck was competent when he gave his statements to police because the record showed that he was rational, aware and able to recall facts clearly when giving his statements.[20] Second, the court determined that Beck was competent during the proceedings because he executed a clear plea memorandum, engaged in a detailed and extensive colloquy with the trial court regarding his plea and gave cogent responses to the court's questions.[21] Third, the court found that Beck had not behaved in any manner that would cause his attorney or the court to have concerns regarding his competency.[22] Finally, the trial court considered the mental health evidence available and deemed Beck empirically to be competent.[23]

On the issue of mental health evidence, the court considered the statements of three mental health experts who examined Beck–one of whom was retained by the Commonwealth and two of whom were retained by Beck.[24] Beck's experts agreed that he expressed himself clearly, thought logically and rationally, and in spite of his severe attention disorder and learning disability, appeared able to assist his counsel.[25] The Commonwealth's expert generally agreed that Beck did not show signs of mental affliction, but also noted that "it is somewhat characteristic of Mr. Beck to be somewhat moody and emotionally unstable, but medication still can be helpful [to him]."[26] On the basis of this evidence, the court determined that Beck was actually competent during the trial court proceedings and was not entitled to a certificate of appealability on his substantive claims.[27]

Beck failed however to raise a procedural competency claim. In such a claim, he could have asserted that the trial court ignored facts that may have raised a doubt as to his competency and that, in consideration of these facts, the trial court should have granted him a hearing on the issue of competency. In *Pate v Robinson*,[28] an Illinois murder case in which the trial court denied the defendant

18. *Id.*
19. *Id.* at 388.
20. *Id.*
21. *Id.*
22. *Id.*
23. *Id.* at 389.
24. *Id.*
25. *Id.*
26. *Id.* at 391.
27. *Id.*
28. 383 U.S. 375 (1966).

a competency hearing in the face of evidence suggesting the defendant's incompetence, the United States Supreme Court held that the Constitution requires a trial judge to inquire into the defendant's competence when facts in evidence raise a "bona fide doubt" as to whether the defendant is competent.[29] In *Drope v Missouri*,[30] the Court held that the trial court bears the responsibility of continually considering a variety of factors in determining whether, at any stage in the proceedings, inquiry should be made into the defendant's competence.[31] *Pate* and *Drope* stand for the proposition that the trial court should inquire into the defendant's competence on its own motion.[32]

The conscientious defense attorney ought to raise a procedural competency attack in any case in which facts were before the trial court which could have called the defendant's competency into doubt at any stage in the proceedings. Although the facts concerning his mental condition may have marshaled against a finding of incompetency, the court certainly had facts before it which may have raised doubt as to Beck's ability to assist in his defense.[33]

C. *Ineffective Assistance and the Guilty Plea*

Beck also raised a claim of ineffective assistance of counsel on habeas review, asserting that had his trial counsel explained to him the elements of the crimes with which he was charged, he would not have pleaded guilty.[34] Claims of ineffective assistance of counsel are typically controlled by the two-pronged test set out in *Strickland v Washington*,[35] which requires that the petitioner prove that trial counsel's performance fell below the reasonable standard of care and that petitioner suffered prejudice due to the negligent representation of trial counsel.[36] The Fourth Circuit explained that the analysis under *Strickland* changes when a petitioner seeks to invalidate a guilty plea because of ineffective assistance; in such a case, petitioner must show that trial counsel's performance was unreasonably deficient, and that but for that deficient performance of counsel, the defendant would not have pleaded guilty.[37]

The claim of ineffective assistance of counsel in cases in which the defendant has pleaded guilty is difficult for two reasons. First, in *Beck*, the court applied a strong presumption that the guilty plea was valid.[38] If there is no evidence that the defendant did not understand the consequences of the guilty

29. Pate v. Robinson, 383 U.S. 375, 386 (1966).
30. 420 U.S. 162 (1975).
31. Drope v. Missouri, 420 U.S. 162, 181 (1975).
32. *Pate*, 383 U.S. at 386; *see Drope*, 420 U.S. at 181.
33. *Beck*, 261 F.3d at 391.
34. *Id.* at 393-94.
35. 466 U.S. 668 (1984).
36. Strickland v. Washington, 466 U.S. 668, 687 (1984).
37. *Beck*, 261 F.3d at 394 (citing Hill v. Lockhart, 474 U.S. 52, 59 (1985)).
38. *Id.* at 394.

plea or that the defendant was coerced into entering the guilty plea, it is highly unlikely that the court will find the prejudice condition to have been satisfied.[39] Second, if the guilty plea appears to be the product of the strategic advice of defense counsel, the court will not be likely to question the wisdom of that advice and deem the performance of counsel to have been deficient.[40]

IV. Epilogue

On October 18, 2001, Beck was executed by lethal injection at the Greensville Correctional Center; he was the second person to die in Virginia's death chamber in 2001.[41] In the days preceding his death, Beck lost an appeal before the United States Supreme Court and a Supreme Court of Virginia review of a lower court ruling denying him new DNA testing.[42] Beck's attorneys also submitted a clemency petition to Governor James Gilmore, maintaining that Beck's history of childhood neglect and abuse were powerful mitigating factors which required sparing Beck's life.[43] Gilmore ultimately denied the clemency petition, noting Beck's guilty pleas and the fact that "there has never been any question as to his guilt or the brutality of his crimes."[44]

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39. *Id.* at 396.
40. *Id.*
41. Frank Green, *State Executes 2nd Man This Year*, RICH. TIMES-DISPATCH, Oct. 19, 2001, at B1.
42. *Id.* at B2.
43. Frank Green, *Sparing of Killer's Life Asked*, RICH. TIMES-DISPATCH, Oct. 15, 2001, at B2.
44. Green, *supra* note 41, at B2.

CASE NOTES:
Supreme Court of Virginia