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Kasi v. Angelone 300 F.3d 487 (4th Cir. 2002)

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Kasi v. Angelone

300 F.3d 487 (4th Cir. 2002)

I. Facts

On Monday, January 25, 1993, a lone gunman emerged from his car and opened fire with an AK-47 assault rifle on a line of automobiles waiting to enter the Central Intelligence Agency ("CIA"). Two CIA employees, Frank Darling ("Darling") and Lansing Bennett ("Bennett") were killed, three other CIA employees, Nicholas Starr, Calvin Morgan, and Stephen Williams were wounded. All five victims were waiting to enter the CIA headquarters in Fairfax, Virginia, in separate automobiles. The gunman, identified as Mir Aimal Kasi ("Kasi"), also known as Mir Aimal Kansi, fled the scene.¹

Kasi, a native of Pakistan, was working as a driver for a local courier service and lived in Reston, Virginia with a friend, Zahed Mir ("Mir"). The day after the shootings, Kasi fled the country for Pakistan and two days later, Mir filed a missing person report. On February 8, 1993, the police searched Mir's apartment and found the weapon used in the shootings. Kasi purchased the weapon in Fairfax County three days prior to the crime.²

On February 16, 1993, Kasi was indicted in Virginia state court for the following offenses: (1) "[c]apital murder of Darling as part of the same act that killed Bennett;" (2) "murder of Bennett;" (3) "malicious woundings of Starr, Morgan, and Williams;" and (4) five charges of using a firearm in commission of the listed felonies.³ Thereafter, a United States Magistrate Judge in the Eastern District of Virginia issued an unlawful flight warrant for Kasi. The CIA and the Federal Bureau of Investigation ("FBI") began a widespread investigation to find and return Kasi to the United States for trial.⁴

On June 15, 1997, over four years later, FBI agents, including Agent Bradley J. Garrett ("Garrett"), located and abducted Kasi from a Pakistani hotel room. Upon abduction, Kasi "was hooded, shackled, and transported by vehicle and air

1. Kasi v. Commonwealth, 508 S.E.2d 57, 59 (Va. 1998).

2. Kasi v. Angelone, 300 F.3d 487, 490-91 (4th Cir. 2002).

3. Kasi, 508 S.E.2d at 59; VA. CODE ANN. § 18.2-31(7) (Michie Supp. 2002) (stating that "the willful, deliberate, and premeditated killing of more than one person as a part of the same act or transaction" constitutes capital murder); VA. CODE ANN. § 18.2-32 (Michie Supp. 2002) (defining first and second degree murder and setting punishments for the class of felonies); VA. CODE ANN. § 18.2-51 (Michie 1996) (setting the punishment for malicious wounding as a class 3 felony); VA. CODE ANN. § 18.2-53.1 (Michie 1996) (setting the punishment for the use of any firearm during the commission of certain felonies).

4. Kasi, 300 F.3d at 491.

to an undisclosed location where he was held in a jail-like facility."⁵ During Kasi's stay in the facility he was never interrogated or harassed by the FBI. He was allowed to eat, drink and sleep and the agents made sure he was treated "fairly and humanely."⁶

After two days in the custody of FBI agents, Kasi was flown from Pakistan to Fairfax County, Virginia, and jurisdiction was transferred to the Commonwealth of Virginia for prosecution.⁷ During the flight to the United States, Kasi signed a written rights waiver form and orally confessed to Garrett. Kasi confirmed the purchase of the AK-47 rifle and ammunition. He confessed that he was "upset" because U.S. aircrafts attacked parts of Iraq, that he was concerned with the "killing of Pakistanians [sic] by U.S. components" and that he was upset in particular "with the CIA because of their involvement in Muslim countries."⁸

Kasi pleaded not guilty to the Virginia indictment and on November 10, 1997, the jury convicted him of all charges. On November 14, 1997, a capital sentencing proceeding was held for the capital murder of Darling. The jury set Kasi's punishment for the murder of Frank Darling at death. The state trial court imposed the death sentence and the recommended sentences on the other charges.⁹

The Supreme Court of Virginia, on direct appeal, affirmed Kasi's conviction and death sentence and the United States Supreme Court denied his petition for writ of certiorari. Kasi filed a petition for a writ of habeas corpus in the Supreme Court of Virginia. The court dismissed his petition and denied rehearing and again the United States Supreme Court denied certiorari.¹⁰

The United States District Court for the Eastern District of Virginia stayed the state court's execution order and Kasi filed a petition for a writ of habeas corpus in the district court. Kasi's petition raised three claims. First, Kasi argued that based on the 1931 Extradition Treaty between the United States and Pakistan the state trial court lacked personal jurisdiction over him.¹¹ This argument had two prongs: first, Kasi claimed that his abduction and removal violated the treaty and second, that because the United States began extradition proceedings in 1993, it was limited to the extradition process.¹² Kasi requested that the

5. *Id.*

6. *Id.* at 496.

7. *Id.* at 491.

8. *Id.*

9. *Id.* at 491-92.

10. *Kasi*, 300 F.3d at 492.

11. The Extradition Treaty between Pakistan and the United States stated that the pertinent countries agree to return individuals who have committed murder or attempted murder in the jurisdiction of the parties. *Id.* at 495.

12. *Id.* at 493-98.

sanction for the violation "should be [a] reversal of the capital murder conviction and repatriation to Pakistan without prejudice for a new trial."¹³

The second claim Kasi made was also two pronged. First, Kasi argued that he "may have been denied access to potentially exculpatory evidence, in violation of *Brady v. Maryland*."¹⁴ This claim was based on the fact that the trial court did not enforce a subpoena of the FBI's investigation files because it lacked jurisdiction.¹⁵ Second, Kasi argued that under *Kyles v. Whitley*,¹⁶ the Commonwealth's Attorney was required to conduct a *Brady* review of all of the federal files "in order to locate and produce any exculpatory evidence that *might* exist within them."¹⁷ Finally, Kasi contended that he was not given a fair trial, guaranteed by the Due Process Clause of the Fourteenth Amendment, because the state trial court refused his request for individual voir dire of the jurors to determine whether they had any knowledge of killings of Americans in Karachi, Pakistan, which occurred during the trial.¹⁸

The magistrate judge concluded that all three claims, although exhausted, did not entitle Kasi to habeas relief.¹⁹ The district court adopted the recommendation, dismissed the petition, and denied Kasi a certificate of appealability.²⁰ Kasi appealed the district court's denial to the United States Court of Appeals for the Fourth Circuit.²¹

II. Holding

The Fourth Circuit found that the district court correctly denied Kasi's petition for federal habeas relief, dismissed the appeal and denied his request for a certificate of appealability.²² The court held the following: (1) the state trial court did not lack jurisdiction over Kasi due to the forcible abduction of Kasi in Pakistan, even if the United States had initiated formal extradition proceedings;²³ (2) the state trial court lacked jurisdiction to compel federal agencies to disclose the subpoenaed documents and the Commonwealth's Attorney had no duty to

13. *Id.* at 495.

14. *Id.* at 500; *Brady v. Maryland*, 373 U.S. 83, 87 (1963) (holding "that the suppression by the prosecution of evidence favorable to an accused upon request violates due process where the evidence is material either to guilt or to punishment, irrespective of the good faith or bad faith of the prosecution").

15. *Kasi*, 300 F.3d at 500, 503.

16. 514 U.S. 419 (1995).

17. *Kasi*, 300 F.3d at 505; *Kyles v. Whitley*, 514 U.S. 419, 437 (1995) (holding "that the individual prosecutor has a duty to learn of any favorable evidence known to the others acting on the government's behalf in the case, including the police").

18. *Kasi*, 300 F.3d at 507.

19. *Id.* at 492.

20. *Id.*

21. *Id.* at 490.

22. *Id.* at 510.

23. *Id.* at 500.

review the files for *Brady* material;²⁴ and (3) Kasi was not deprived of a fair trial when the state trial court refused Kasi's request to conduct individual voir dire.²⁵

III. Analysis

A. Extradition

The Fourth Circuit began by discussing four United States Supreme Court cases. First, in *Ker v. Illinois*,²⁶ the Supreme Court decided that a "criminal defendant who has been *abducted* by the United States from a foreign nation with which the United States has an extradition treaty does not thereby acquire a defense to the jurisdiction of the courts within this country."²⁷ Second, in *Frisbie v. Collins*,²⁸ the Court held that the jurisdiction of a court to try a defendant is not frustrated by the fact that the defendant was brought within the jurisdiction through forcible abduction.²⁹ Third, in *United States v. Rauscher*,³⁰ the Court held that a defendant returned through extradition to the United States from a foreign nation with which an extradition treaty exists may only be tried for those offenses charged in the extradition request "until a reasonable time and opportunity have been given him, after his release or trial upon such charge, to return to the country from whose asylum he had been forcibly taken under those proceedings."³¹ Finally, in *United States v. Alvarez-Machain*,³² the Court reconciled *Ker* and *Rauscher* and noted that the express language of the treaty should be considered.³³ Thus, to prevail on an extradition treaty claim, a defendant must demonstrate that the "express language of a treaty and/or the established practice thereunder" shows that "the United States affirmatively agreed not to seize foreign nationals from the territory of its treaty partner."³⁴

24. *Kasi*, 300 F.3d at 504, 507.

25. *Id.*

26. 119 U.S. 436 (1886).

27. *Kasi*, 300 F.3d at 493; *Ker v. Illinois*, 119 U.S. 436, 444 (1886) (stating that forcible removal of defendant from Peru did not subject defendant to illegal trial in Illinois).

28. 342 U.S. 519 (1952).

29. *Frisbie v. Collins*, 342 U.S. 519, 522 (1952) (holding that the power of the court to try a defendant is not impaired by the fact that the defendant was brought within the court's jurisdiction by reason of "forcible abduction").

30. 119 U.S. 407 (1886).

31. *United States v. Rauscher*, 119 U.S. 407, 430 (1886) (interpreting an extradition treaty between the United States and Great Britain and holding that defendant can only be tried for those crimes which are in the extradition request).

32. 504 U.S. 655 (1992).

33. *United States v. Alvarez-Machain*, 504 U.S. 655, 664 (1992) (rejecting defendant's claim that treaty between Mexico and United States prohibited forcible abduction because express language of treaty "d[id] not purport to specify the only way in which one country may gain custody of a national of the other country for the purposes of prosecution").

34. *United States v. Noriega*, 117 F.3d 1206, 1213 (11th Cir. 1997) (stating that defendant must demonstrate that the United States affirmatively agreed not to seize foreign nationals from

The Fourth Circuit, relying on *Alvarez-Machain*, summarized that although terms set forth in the extradition treaty may regulate a court's ability to prosecute a defendant who has been returned to the United States in accordance with the treaty, courts do not lack jurisdiction over a defendant whose abduction was not expressly forbidden.³⁵ The court conceded that there was no dispute that Kasi's forcible seizure in Pakistan and return to the United States was not done pursuant to the extradition treaty in force between the United States and Pakistan.³⁶ The Fourth Circuit noted that the treaty did not specify the way in which one country could acquire a national from the other country for purposes of prosecution.³⁷ The court stated that the location and abduction of Kasi by FBI agents was not expressly prohibited by the extradition treaty and thus "did not divest the Virginia state court of jurisdiction to try Kasi for the offenses committed in Virginia."³⁸

The second prong to Kasi's claim is a contention that the documents he presented to the district court demonstrated that the United States began extradition proceedings with the Pakistani government.³⁹ Kasi argued that *Alvarez-Machain* did not apply because, unlike that case, extradition proceedings were already initiated under the treaty.⁴⁰ Therefore, Kasi argued that the United States was barred from forcibly abducting him and was required to complete the formal extradition proceedings.⁴¹

The Fourth Circuit concluded that it need not address the second prong of Kasi's claim.⁴² The Fourth Circuit stated that the evidence Kasi relied on at most demonstrated that the United States issued a formal extradition request.⁴³ However, nothing happened pursuant to the request.⁴⁴ Relying on *Alvarez-Machain*, the court noted that the extradition treaty between the United States and Pakistan does not state that once an extradition proceeding is initiated, the measures set forth by the treaty become the only way of transporting custody of a criminal from one country to the other.⁴⁵ The court, relying on *United States v. Chapa-Garza*,⁴⁶ stated that even if Kasi's claim that the United States began extradition proceedings was entertained, the extradition treaty did not address the

territory of its treaty partner).

35. *Kasi*, 300 F.3d at 495.

36. *Id.* at 496.

37. *Id.* at 499.

38. *Id.*

39. *Id.* at 497.

40. *Id.* at 498.

41. *Kasi*, 300 F.3d at 498.

42. *Id.* at 499.

43. *Id.*

44. *Id.*

45. *Id.*

46. 62 F.3d 118 (5th Cir. 1995).

legality of forced abductions.⁴⁷ Thus, forcible abduction was not barred to the United States as a possible method of transferring Kasi from Pakistan.⁴⁸ Furthermore, Kasi was not entitled repatriation to Pakistan under the extradition treaty because he was not seized in violation of the terms of the treaty.⁴⁹ Therefore, on this issue, Kasi was not entitled to federal habeas relief.⁵⁰

B. *Brady Violations*

The Fourth Circuit next addressed Kasi's two pronged claim that his constitutional right to obtain evidence was violated by the trial court's refusal to enforce a subpoena issued to the FBI and the Commonwealth's Attorney's failure to investigate the FBI file for *Brady* material.⁵¹ The FBI and other federal agencies refused to comply with the subpoenas, asserting that "the state court lacked jurisdiction to compel a federal custodian of records to comply with a subpoena for documents obtained by the employee in the course of his official duties."⁵² The trial court agreed and refused to issue an order of contempt because of its lack of jurisdiction.⁵³ The Fourth Circuit noted that the district court's rejection of Kasi's *Brady* claim was correct because he could not specify any piece of evidence that may have been favorable to his defense or material to his guilt or innocence.⁵⁴

However, the Fourth Circuit found that the district court failed to address the second prong of Kasi's argument—that the Commonwealth's Attorney was required to review all of the federal files and therefore Kasi need not show the existence of exculpatory evidence under *Kyles*.⁵⁵ In *Kyles*, the Supreme Court held that the prosecution is "assigned the . . . responsibility to gauge the likely net effect of all such evidence and make disclosure when the point of 'reasonable probability' is reached."⁵⁶ Therefore, the prosecution should have knowledge of evidence known to others acting on the government's behalf.⁵⁷

Relying on *Kyles*, Kasi argued that the Commonwealth's Attorney was required to review all of the FBI files for possible *Brady* evidence.⁵⁸ Kasi also

47. *Kasi*, 300 F.3d at 500; see *United States v. Chapa-Garza*, 62 F.3d 118, 120-21 (5th Cir. 1995) (rejecting *Alvarez-Machain* claim and holding that extradition treaty does not govern the legality of forced abductions).

48. See *Kasi*, 300 F.3d at 500.

49. *Id.*

50. *Id.*

51. *Id.*

52. *Id.* at 501.

53. *Id.*

54. *Kasi*, 300 F.3d at 505.

55. *Id.* at 505.

56. *Kyles*, 514 U.S. at 437 (citing *United States v. Bagley*, 473 U.S. 667, 682-83 (1985)).

57. *Id.*

58. *Kasi*, 300 F.3d at 505.

maintained that he need not demonstrate the existence of any exculpatory evidence to prove a *Brady* violation, so long as he established that the prosecutor did not review the files.⁵⁹ Kasi asserted that no higher burden could be imposed; if it were imposed "state criminal defendants will . . . be left with no mechanism for obtaining exculpatory evidence."⁶⁰

The Fourth Circuit found procedural and analytical flaws in Kasi's argument.⁶¹ The court found that because the Commonwealth has no authority over the FBI, the Commonwealth's prosecutor does not have authority to demand access to FBI files in order to conduct a *Brady* examination.⁶² In *United States v Williams*,⁶³ the Fourth Circuit provided an avenue for state criminal defendants to obtain exculpatory evidence.⁶⁴ The court held that a state criminal defendant must seek investigative file materials from a federal agency in accordance with appropriate agency regulations.⁶⁵ The court noted that the proper method of judicial review of an agency's behavior is through the Administrative Procedure Act ("APA").⁶⁶ The correct method requires the defendant to "assert his constitutional claim to the investigative information before the district court, which possesses authority under the APA to compel the law enforcement agency to produce the requested information in appropriate cases."⁶⁷ Kasi complied with these requirements, but the district court rejected his request and set aside the case.⁶⁸ The Fourth Circuit noted that after Kasi's demands were rejected, he did not attempt to appeal the decision of that ruling to the United States Court of Appeals for the District of Columbia.⁶⁹ The Fourth Circuit concluded that the Supreme Court of Virginia did not err in rejecting Kasi's *Brady* claim and that Kasi was not entitled to federal habeas relief on this issue.⁷⁰

59. *Id.*

60. *Id.* at 506.

61. *Id.*

62. *Id.*

63. 170 F.3d 431 (4th Cir. 1999).

64. *United States v. Williams*, 170 F.3d 431, 434 (4th Cir. 1999) (reiterating that a state court lacks "jurisdiction to compel the FBI to produce documents subpoenaed by a defendant in the course of a state criminal prosecution").

65. *Id.* at 433-34.

66. *Kasi*, 300 F.3d at 506; 5 U.S.C. § 706(2)(A)-(B) (2000) (stating that district courts have jurisdiction to reject agency action that is "arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law" including action "contrary to constitutional right, power, privilege, or immunity"); 5 U.S.C. § 706(1) (2000) (vesting district courts authority to "compel agency action unlawfully withheld or unreasonably delayed").

67. *Williams*, 170 F.3d at 434; § 706(2)(A)-(B); see § 706(1).

68. *Kasi*, 300 F.3d at 506-07.

69. *Id.* at 507.

70. *Id.*

C. Individual Voir Dire

Finally, the Fourth Circuit addressed Kasi's third claim—that he was deprived of a fair trial because of the trial court's refusal to allow individual voir dire of the jury members to determine if they had any knowledge of shootings in Karachi, Pakistan.⁷¹ The court noted that voir dire is the principal means of establishing an impartial jury guaranteed by the Sixth and Fourteenth Amendments to the United States Constitution.⁷² However, the Fourth Circuit also stated that the trial court's discretion is broad with regard to voir dire.⁷³

The Fourth Circuit held that a defendant does not always have a right to specific questions concerning possible prejudices against him.⁷⁴ Furthermore, the court held that an impartial jury can be constructed with "less than an inquiry into a specific prejudice feared by the defendant."⁷⁵ Accordingly, the trial court need only provide a voir dire that can sufficiently "uncover bias or partiality in the venire."⁷⁶

The Fourth Circuit found that Kasi had not demonstrated that the jurors knew of the Karachi killings.⁷⁷ In so holding, the court stated that the trial court's questions to the jurors, concerning possible exposure to media relating to the case, were sufficient to ensure the absence of any bias or prejudice in the jury.⁷⁸ Thus, the Fourth Circuit concluded that the trial court did not abuse its discretion in refusing to allow individual voir dire and rejected federal habeas relief on this issue as well.⁷⁹

IV. Application in Virginia

The "informal" extradition that Kasi was subjected to is legal in all but two situations. First, a defendant extradited pursuant to an extradition treaty can only be tried for those offenses for which he was extradited.⁸⁰ Attorneys representing extradited defendants should ensure that the charges do not exceed those upon which the extradition was based. In addition to its substantive effect, extradition

71. *Id.* at 509-10.

72. *Id.* at 509; U.S. CONST. amend. VI ("In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial, by an impartial jury of the State and district wherein the crime shall have been committed."); U.S. CONST. amend. XIV, § 1 ("No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law.").

73. *Kasi*, 300 F.3d at 509.

74. *Id.* (citing *Ristaino v. Ross*, 424 U.S. 589, 595 (1976)).

75. *Id.* (quoting *Ristaino*, 424 U.S. at 595).

76. *Id.* at 509-10 (quoting *United States v. Lancaster*, 96 F.3d 734, 739-40 (4th Cir. 1996)).

77. *Id.* at 510.

78. *Id.*

79. *Kasi*, 300 F.3d at 510.

80. *Rauscher*, 119 U.S. at 430.

may also control penalty. Many countries will not extradite defendants who face the death penalty in the United States. For example, Jens Soering, a German national who was charged with capital murder in Virginia, was arrested in England.⁸¹ After protracted litigation, including a decision by the European Court for Human Rights,⁸² Soering was extradited only after the British government received assurances that he would not face the death penalty.⁸³ Soering was convicted and sentenced to two consecutive life sentences.⁸⁴

The second exception relates to the holding in *Alvarez-Machain*; defendants cannot be forcibly abducted if the treaty expressly forbids forcible abduction.⁸⁵ Therefore, practitioners dealing with an abducted client should carefully review the treaty governing the abduction to ascertain whether it is prohibited. Additionally, practitioners should note that state courts do not lack jurisdiction over a defendant whose abduction was not expressly forbidden.⁸⁶

The *Brady* issue presented in the case is limited to its facts. In order to conduct a judicial review on matters relating to agency subpoena noncompliance, the proper method is through the APA.⁸⁷ The APA provides a procedure "for judicial review of a decision by a federal agency" to retain investigation materials, in which the defendant "can proffer any perceived rights to the file materials under the constitutional principles set forth in *Brady* and its progeny."⁸⁸

Finally, the defense counsel in this case correctly objected to the trial court's refusal to allow individual voir dire.⁸⁹ The objection preserved the issue for further review.⁹⁰ Counsel's failure to object will default the issue for any further

81. *Soering v. Deeds*, No. 99-6498, 2000 WL 870490, at **1 (4th Cir. 2000) (affirming district court's judgment denying Soering's application for writ of habeas corpus). In Virginia, this multiple murder fell under Code Section 18.2-31(7) and made Soering eligible for a capital murder charge. VA. CODE ANN. § 18.2-31(7) (Michie Supp. 2002) (defining capital murder as "[t]he willful, deliberate, and premeditated killing of more than one person as a part of the same act or transaction").

82. *Soering v. United Kingdom*, 161 Eur. Ct. H.R. (Ser. A) (1989) (holding that death row conditions are inhuman and degrading).

83. Richard B. Lillich, *The Soering Case*, 85 AM. J. INT'L L. 128, 137, 141 (1991) (analyzing *Soering v. United Kingdom*, 161 Eur. Ct. H.R. (ser. A) (1989)); see *Re Soering*, 1990 WL 754501 at *1 (Q.B. Div'l Ct. 1990); *Regina v. Governor of Brixton Prison Ex Parte Soering*, 1988 WL 623814 at *1 (Q.B. Div'l Ct. 1988).

84. Lillich, *supra* note 83, at 130. The European Court relied on a report written by the European Commission for Human Rights regarding Soering's concern that there was a serious likelihood that he would be sentenced to death in the United States if extradited directly from Great Britain. *Id.*

85. *Alvarez-Machain*, 504 U.S. at 664.

86. *Kasi*, 300 F.3d at 495.

87. *Id.* at 506; § 706 (1)-(2).

88. *Kasi*, 300 F.3d at 506; § 706 (1)-(2).

89. *Kasi*, 300 F.3d at 507.

90. VA. SUP. CT. R. 5:25 ("Error will not be sustained to any ruling of the trial court . . . unless the objection was stated with reasonable certainty at the time of the ruling . . .").

review.⁹¹ Kasi's situation was atypical because of the timing of the request to the trial court. A vigilant practitioner will attempt to prevent bias throughout trial and not just at initial voir dire. Thus, practitioners in this position should request individual voir dire and, in the alternative, make a motion for mistrial to preserve the issue for later review.

IV. Conclusion

The Fourth Circuit, in denying federal habeas relief to Kasi, clarified points relating to extradition, *Brady* material, and individual voir dire. Attorneys must be mindful of the treaty governing extradition to ascertain whether forcible abduction is permitted. Also, practitioners must follow APA procedure, which confers on district courts authority to set aside agency action, to review a *Brady* claim. Following the strategy of the defense counsel in *Kasi*, practitioners should request individual voir dire at any point at which bias or prejudice may arise or make a motion for mistrial to preserve the issue for later review.

VI. Epilogue

On November 14, 2002, Mir Aimal Kasi was executed by lethal injection at the Greensville Correctional Center.⁹² On the afternoon of his death, Mark Warner, Governor of Virginia, denied Kasi's clemency request—a clemency request supported by the government of Pakistan.⁹³ On the same day, the United States Supreme Court also rejected Kasi's final appeal.⁹⁴

Priya Nath

91. *Id.*; see *Schmitt v. Commonwealth*, 547 S.E.2d 186, 194 (Va. 200[1]) ("Because Schmitt failed to make . . . objections in the trial court, he has waived these issues on appeal.").

92. Maria Glod & Eric Weiss, *Kasi Executed For CIA Slayings*, WASH. POST, Nov. 15, 2002, at A1.

93. *Id.* at A23.

94. *Id.*