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Yeatts v. Angelone

166 F.3d 255 (4th Cir. 1999)

I. Facts

On September 23, 1989, Ronald Dale Yeatts ("Yeatts") murdered Ruby Meeks Dodson ("Dodson"), a 70-year-old woman, during a robbery at Dodson's house. Yeatts acted with Charles Michael Vernon ("Vernon"), who had previously worked for Dodson and who searched her bedroom while Yeatts committed the murder. Vernon later testified against Yeatts in exchange for a twenty year sentence. In addition to circumstantial evidence and the testimony of Vernon, Yeatts confessed to the killing. A jury found Yeatts guilty of capital murder and sentenced him to death based upon a finding of future dangerousness.¹

During the penalty phase of Yeatts's capital murder trial, the court refused to allow jury instructions regarding Yeatts's ineligibility for parole for thirty years.² Yeatts's request to inform the jury of his parole status rested on Eighth Amendment grounds that such evidence is mitigating, supporting the contention that a life in prison sentence would be severe enough and sufficient in his case.³ The trial court denied Yeatts's request, instructing the jury not to consider the question of parole, but merely to focus on the question of life in prison or death. Yeatts acquiesced in the court's interpretation and application of Virginia law.⁴

The Supreme Court of Virginia affirmed Yeatts's conviction and sentence.⁵ The United States Supreme Court denied certiorari.⁶ Yeatts filed a state habeas petition in 1992 which the state habeas court dismissed.⁷ The Supreme Court of Virginia then granted Yeatts's petition for appeal, but denied relief.⁸ Yeatts next applied for federal habeas relief in United States District Court, raising a Fourteenth Amendment due process claim regard-

1. Yeatts v. Angelone, 166 F.3d 255, 258-59 (4th Cir. 1999).

2. *Id.* at 259.

3. *Id.* at 260.

4. *Id.* at 259.

5. *Id.* See Yeatts v. Commonwealth, 410 S.E.2d 254 (Va. 1991).

6. Yeatts v. Virginia, 503 U.S. 946 (1992).

7. Yeatts, 166 F.3d at 259. Yeatts's habeas petition preceded Virginia's latest efforts to streamline the habeas process in capital cases. Today, Yeatts's state habeas petition would be presented directly to the Supreme Court of Virginia. See Brian S. Clarke, Case Note, CAP. DEF. J., Fall 1997, at 30 (analyzing Williams v. Warden, 487 S.E.2d 194 (Va. 1997)).

8. See Yeatts v. Murray, 455 S.E.2d 18 (Va. 1995).

ing parole eligibility jury instructions, in addition to the other claims he presented at state habeas.⁹ The district court denied relief.¹⁰ Yeatts appealed to the United States Court of Appeals for the Fourth Circuit, claiming that the state trial court erroneously barred him from informing the jury of his parole eligibility during the sentencing phase and that his counsel was "ineffective for failing to adequately death qualify the prospective jurors during voir dire."¹¹

II. Holding

The United States Court of Appeals for the Fourth Circuit held that Yeatts failed to make a substantial showing that a denial of a constitutional right occurred during his trial. Specifically, both Yeatts's claim regarding his inability to inform the jury at trial of his parole eligibility and his ineffective assistance of counsel claim regarding counsel's failure to conduct a sufficient voir dire were procedurally barred.¹² Therefore, the court denied Yeatts a certificate of probable cause to appeal and dismissed his petition.¹³

III. Analysis / Application in Virginia

A. Presentation to the Jury of Parole Ineligibility

Yeatts's case presents two defense theories for entitlement to instructions to the jury on the defendant's ineligibility for parole. The first, presented at trial, relied on the Eighth Amendment constitutional ground that a defendant be allowed to present any mitigating evidence to the sentencing body in a capital proceeding.¹⁴ Yeatts argued that presentation of his ineligibility of parole for thirty years was a relevant mitigating factor appropriate for presentation to the jury.¹⁵ This defense theory apparently was not pursued beyond the direct appeal process.

The second theory for ineligibility of parole instructions, which Yeatts claimed during his habeas process, relied on the Fourteenth Amendment constitutional ground that Yeatts's due process rights were denied when the court barred him from responding to the Commonwealth's future dangerousness evidence concerning Yeatts's prior criminal record.¹⁶ Yeatts argued

9. *Yeatts*, 166 F.3d at 259-60.

10. *Id.*

11. *Id.* at 259-62.

12. *Id.* at 262, 265-66.

13. *Id.* at 266.

14. *Id.* at 260. See *Mills v. Maryland*, 486 U.S. 367 (1988) (forbidding procedural barriers to consideration of mitigation). See also *Skipper v. South Carolina*, 476 U.S. 1 (1986) (forbidding exclusion of evidence that defendant adjusted well to incarceration).

15. *Yeatts*, 166 F.3d at 260.

16. *Id.*

that his response to the Commonwealth's argument would have been to inform the jury that he would be ineligible for parole for at least thirty years if sentenced to life in prison instead of death.¹⁷

Before the Fourth Circuit, the Commonwealth asserted that Yeatts's Fourteenth Amendment claim was procedurally defaulted due to his failure to raise the claim at the state court level on direct appeal.¹⁸ The Commonwealth noted that Yeatts raised an Eighth Amendment claim at trial and on direct appeal, but did not make the Fourteenth Amendment claim until the federal habeas level.¹⁹ Yeatts responded that the Commonwealth itself had failed to argue this procedural default during habeas proceedings in the federal district court.²⁰ The Fourth Circuit acknowledged the merit of Yeatts's argument that the government must plead procedural default in order for it to apply such a defense thereafter.²¹ In other words, procedural default is an affirmative defense which the government is responsible for raising.

However, the Fourth Circuit, citing interests that transcend those of the parties, such as comity and judicial efficiency, forgave the Commonwealth's default.²² The court noted that the Commonwealth's default was "unintentional."²³ The court was not so understanding of Yeatts. The Fourth Circuit labeled Yeatts's default "obvious" for his failure to raise the due process claim at the direct appeal or state habeas level, even though he raised a related claim at those levels.²⁴ Therefore, no matter how "unintentional" Yeatts's failure to raise the appropriate constitutional claim may have been, his actions were not excused, based on "transcend[ental]" grounds.²⁵

After *Simmons v. South Carolina*,²⁶ capital defendants in Virginia must be permitted to inform juries of their parole ineligibility if they are sen-

17. *Id.*

18. *Id.*

19. *Id.*

20. *Id.*

21. *Id.* at 261.

22. *Id.* The court also cited a desire to avoid the necessity of parsing state procedural law. The court, however, is not at all averse to parsing state procedural law when doing so will permit denial of relief to a capital petitioner, as evidenced by its treatment of Yeatts's ineffective assistance of counsel claim, *infra*, and by a different Fourth Circuit panel's treatment of Richard Charles Johnson in *Johnson v. Moore*, Nos. 97-33, 97-7801, 1998 WL 708691 (4th Cir. Sept. 24, 1998). See Matthew K. Mahoney, Case Note, 11 CAP. DEF. J. 353(1999) (analyzing *Johnson v. Moore*, , Nos. 97-33, 97-7801, 1998 WL 708691 (4th Cir. Sept. 24, 1998).

23. *Yeatts*, 166 F.3d at 262.

24. *Id.*

25. *Id.* at 261.

26. 512 U.S. 154 (1994).

tenced to life in prison.²⁷ The defendant has the right to inform the jury of parole ineligibility even if the Commonwealth attempts to circumvent *Simmons* by claiming reliance on the "vileness" aggravating factor.²⁸ As a practical matter however, counsel will also do well to present the severity of life imprisonment with no hope of parole as mitigating evidence.²⁹

B. Preservation of an Ineffective Assistance of Counsel Claim after the Denial of an Evidentiary Hearing

At state habeas corpus proceedings, Yeatts cited as error the trial court's denial of an evidentiary hearing on his ineffective assistance of counsel claim.³⁰ The Supreme Court of Virginia held that the wording of Yeatts's claim failed to preserve the underlying ineffective assistance of counsel claim and therefore the claim regarding an evidentiary hearing was moot and the underlying claim of ineffective assistance of counsel defaulted.³¹ Yeatts next argued at the federal habeas level, in front of a magistrate, that the procedural rule relied on by the Supreme Court of Virginia should not foreclose federal review because the state rule had not been regularly or consistently applied in similar situations.³² Yeatts presented five cases illustrating this discrepancy in application of the Virginia procedural rule.³³ The federal magistrate, in examining the application of this novel concept, found the default rule inconsistently applied, thereby failing to provide Yeatts and other similarly situated petitioners sufficient notice of the need for a more specific assignment of error.³⁴ The Fourth Circuit, this time *not* reluctant to parse state procedural law, reversed the district court and denied Yeatts relief on this technicality, though it did opine that the claim also lacked merit.³⁵

27. In 1994, Virginia abolished parole for persons convicted of capital murder. VA. CODE ANN. § 53.1-165.1 (Michie 1998).

28. Counsel are urged to contact the Virginia Capital Case Clearinghouse if the Commonwealth utilizes this tactic.

29. See David D. Leshner, Case Note, 11 CAP. DEF. J. 419 (1999) (analyzing *Cherrix v. Commonwealth*, Nos. 981798, 982063, 1999 WL 101077 (Va. Feb. 26, 1999)).

30. *Yeatts*, 166 F.3d at 262-63.

31. *Id.* The court cited Supreme Court of Virginia Rule 5:17(c), which requires the petitioner to list specific errors in the rulings below when raising claims at appeal and habeas proceedings. See VA. SUP. CT. R. 5:17(c).

32. *Id.* at 263.

33. *Id.*

34. *Id.*

35. *Id.* at 264-65. Regarding the merits of Yeatts's claim, which related to the adequacy of counsel's voir dire examination, counsel are urged to carefully read *Morgan v. Illinois*, 504 U.S. 719 (1992) (holding juror unable to consider life sentence must be excused for cause), and *Wainwright v. Witt*, 469 U.S. 810 (1985) (holding juror may be excused for cause if juror's views would prevent or substantially impair the performance of his duties in accordance with

C. Conclusion

There is little doubt that counsel who strive diligently to meet the default standards exemplified in *Yeatts* will not completely be able to succeed. The Supreme Court of Virginia and the Fourth Circuit will simply change the requirements again. Nevertheless, the effort must be made to properly raise all claims for each subsequent level of direct and habeas appeal.

Yeatts teaches that claims must not only be made on federal constitutional grounds, but on *all possible* federal constitutional grounds. Further, the ineffective assistance of counsel claim treatment, ludicrous as it is, reminds trial and direct appeal counsel to carve up every objection and assignment of error into as many component parts as can be imagined.³⁶

Matthew K. Mahoney

his instructions and oath), and strive for equal treatment and time during voir dire.

36. For another example of proper assignment of errors, counsel should consider *Sheppard v. Taylor*, Nos. 980559, 980879, 1998 WL 743663 (4th Cir. Oct. 23, 1998). See Alix M. Karl, Case Note, 11 CAP. DEF. J. 373 (1999) (analyzing *Sheppard v. Taylor*, Nos. 980559, 980879, 1998 WL 743663 (4th Cir. Oct. 23, 1998)).

CASE NOTES:

Virginia Supreme Court
