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# Ramdass v. Angelone

## 120 S. Ct. 2113 (2000)

### I. Facts

On January 30, 1993, Bobby Lee Ramdass ("Ramdass") was convicted of the capital murder of Mohammed Kayani ("Kayani"). The jury recommended a sentence of death based on the future dangerousness aggravating factor. At the sentencing hearing held by the judge approximately two months after the jury's verdict, Ramdass argued that the jury should have been instructed that he would be ineligible for parole if given a life sentence. Ramdass argued that at the time of the jury's verdict and sentence recommendation he had previously been convicted of crimes which rendered him ineligible for parole under Virginia's "three strikes" law.<sup>1</sup> Although Ramdass was convicted of a crime which counted as a "strike," final judgment was not entered until after the jury's verdict and recommendation of the death sentence. Final judgment was entered on that non-capital crime on February 18, 1993, between the date of the jury's verdict on the Kayani murder and the date of the sentencing hearing at which the judge imposed the death sentence.<sup>2</sup> The Supreme Court of Virginia denied Ramdass's appeal.<sup>3</sup>

Ramdass then petitioned the United States Supreme Court for a writ of certiorari. Before granting the writ, the United States Supreme Court decided *Simmons v. South Carolina*,<sup>4</sup> holding that the jury in a capital case, upon the defendant's request, must be informed of a defendant's parole ineligibility when the defendant's future dangerousness is at issue.<sup>5</sup> The Court granted Ramdass's writ and remanded his case to the Supreme Court of Virginia for reconsideration in light of the standards set forth in *Simmons*.<sup>6</sup> The Supreme Court of Virginia found that Ramdass's conviction for the murder of Kayani was not his third "strike" because final judgment

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1. *Ramdass v. Angelone*, 120 S.Ct. 2113, 2118 (2000). Virginia's "three strikes" law states in pertinent part that "[a]ny person convicted of three separate felony offenses of (i) murder, (ii) rape or (iii) robbery by the presenting of firearms or other deadly weapon, or any combination of the offenses specified in subdivisions (i), (ii) or (iii) when such offenses were not part of a common act, transaction or scheme shall not be eligible for parole." VA. CODE ANN. § 53.1-151(B)(1) (Michie 2000).

2. *Ramdass*, 120 S. Ct. at 2117.

3. *Ramdass v. Commonwealth*, 437 S.E.2d 566, 574 (Va. 1993).

4. 512 U.S. 154 (1994).

5. *Simmons v. South Carolina*, 512 U.S. 154, 162 (1994).

6. *Ramdass v. Virginia*, 512 U.S. 1217 (1994) (mem.).

for the murder of Kayani was not his third "strike" because final judgment had not been entered on a previous "strike" at the time of the jury's deliberations in the Kayani murder trial. The Supreme Court of Virginia found that *Simmons* was inapplicable to Ramdass's case because he was eligible for parole at the time of his capital murder trial. Accordingly, the court affirmed his death sentence.<sup>7</sup> Ramdass's subsequent petition for a writ of certiorari to the United States Supreme Court was denied.<sup>8</sup>

Ramdass petitioned the United States District Court for the Eastern District of Virginia for a writ of habeas corpus on the ground that the Supreme Court of Virginia erred in not applying *Simmons* to his case. The district court granted his petition, but the United States Court of Appeals for the Fourth Circuit reversed the district court's decision and denied relief.<sup>9</sup> The United States Supreme Court stayed Ramdass's execution and granted certiorari.<sup>10</sup> Ramdass argued that he was entitled to an instruction informing the jury that he was ineligible for parole under the "three strikes" law.<sup>11</sup>

## II. Holding

The United States Supreme Court rejected Ramdass's argument and affirmed his sentence of death.<sup>12</sup>

## III. Analysis / Application in Virginia

The United States Supreme Court found that the ruling of the Supreme Court of Virginia that Ramdass was not entitled to a "life means life" instruction was "neither contrary to *Simmons* nor an unreasonable application of its rationale."<sup>13</sup> The *Simmons* Court held that due process required a "life means life" instruction only when the defendant was ineligible for parole under state law.<sup>14</sup> The Court found that Ramdass's case was distinguishable from *Simmons* because Ramdass was not in fact ineligible for parole at the time of the jury's deliberation and verdict.<sup>15</sup> Ramdass argued

7. *Ramdass v. Commonwealth*, 450 S.E.2d 360, 361 (Va. 1994).

8. *Ramdass v. Virginia*, 514 U.S. 1085 (1995) (mem.).

9. *Ramdass v. Angelone*, 187 F.3d 396, 399 (4th Cir. 1999).

10. *Ramdass v. Angelone*, 120 S. Ct. 523 (1999) (mem.); *Ramdass v. Angelone*, 120 S. Ct. 784 (2000) (mem.).

11. *Ramdass*, 120 S. Ct. 2113, 2119 (2000).

12. *Id.*

13. *Id.* at 2120.

14. See *Simmons v. South Carolina*, 512 U.S. 154, 162 (1994).

15. *Ramdass*, 120 S. Ct. at 2120. Ramdass was technically eligible for parole at the time the jury returned its verdict and sentence recommendation because the trial court had not yet entered final judgment on one of the convictions that would have made him ineligible for parole under Virginia's three strikes law. *Id.*

that Simmons was technically not parole-ineligible under South Carolina law, and that Ramdass's situation under Virginia law was substantially similar to that of Simmons so as to warrant application of the *Simmons* rule to his case.<sup>16</sup> The Court found that Ramdass's contentions that Simmons was not in fact ineligible for parole at the time of his sentencing because the South Carolina Board of Probation had not formally determined that he was ineligible for parole and that "hypothetical future events (such as escape, pardon, or a change in the law) might mean [Simmons] would, at some point, be released from prison" were without merit.<sup>17</sup> The Court stated that Ramdass's contentions were irrelevant because he "was not ineligible for parole as a matter of state law at the time of his sentencing trial."<sup>18</sup> Ramdass was technically eligible for parole under Virginia law at the time of the jury's sentence recommendation because, although he had been found guilty of a crime that would have constituted his second strike, the trial court had not yet entered an order of final judgment in that case.<sup>19</sup>

The United States Supreme Court found that the Supreme Court of Virginia was not required to extend the holding of *Simmons* to include Ramdass's situation.<sup>20</sup> The Court disagreed with Ramdass's contention that the state court should be required to "evaluate whether it looks like the defendant will turn out to be parole ineligible."<sup>21</sup> The Court noted that Ramdass's proposed extension of the *Simmons* rule would have the effect of requiring a jury to consider peripheral possibilities such as whether the conviction will be overturned on appeal, or whether a defendant would be pardoned at some point in the future, in determining a defendant's parole eligibility.<sup>22</sup> The Court stated that requiring such an evaluation might distract the jury from considering the central issues in a capital sentencing, which are the presence or absence of aggravating factors and the balancing of aggravating evidence with mitigating evidence.<sup>23</sup> The Court also noted that "the admissibility of evidence at capital sentencing was, and remains, an issue left to the States, subject of course to federal requirements."<sup>24</sup> It is interesting to note that the four dissenting justices found that the *Simmons* rule should have been applied in Ramdass's case and noted the "acute

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16. *Id.* at 2120-21.

17. *Id.* at 2121.

18. *Id.* at 2120-21.

19. *Id.* at 2119. The Court noted that under Virginia law, a conviction is not final until the trial judge "enter[s] a final judgment of conviction and pronounce[s] sentence." *Id.* at 2117.

20. *Id.* at 2121.

21. *Id.*

22. *Id.*

23. *Id.*

24. *Id.* at 2121-22.

unfairness in permitting a State to rely on a recent conviction to establish a defendant's future dangerousness while simultaneously permitting the State to deny that there was such a conviction when the defendant attempts to argue that he is parole ineligible and therefore not a future danger."<sup>25</sup> The dissent also pointed out that "[t]he sole basis for the plurality's conclusion that the [verdict on the "strike" in question] is uncertain is the possibility that it could be set aside under Rule 3A:15(b)," and that under Rule 3A:15(b) a guilty verdict can be set aside even after the trial judge signs an order of conviction, rendering final judgments just as uncertain as jury verdicts that have not yet been confirmed by a final order of conviction.<sup>26</sup>

The holding of this case only applies to cases in which the murder was committed before January 1, 1995, because Virginia has abolished parole for defendants convicted of felony offenses committed on or after January 1, 1995.<sup>27</sup> In *Yarbrough v. Commonwealth*,<sup>28</sup> the Supreme Court of Virginia expanded the application of the *Simmons* rule to cases in which the Commonwealth relies solely on the vileness aggravator.<sup>29</sup> *Yarbrough* held that a "life means life" instruction is required in all capital cases in which the defendant is ineligible for parole.<sup>30</sup> Section 19.2-264.4 of the Virginia Code now states that "[u]pon request of the defendant, a jury shall be instructed that for all Class 1 felony offenses committed after January 1, 1995, a defendant shall not be eligible for parole if sentenced to imprisonment for life."<sup>31</sup> Thus, in all Virginia capital murder trials for offenses committed after January 1, 1995, defendants are eligible to have a "life means life" instruction given to the jury at the close of the evidence presented in the penalty phase.<sup>32</sup>

#### IV. Epilogue

On October 10, 2000, Ramdass was executed by lethal injection.<sup>33</sup> Prior to Ramdass's execution, four jurors stated that they would have voted to recommend a sentence of life in prison if they had known that Ramdass

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25. *Id.* at 2128.

26. *Id.* at 2132; see VA. SUP. CT. R. 3A:15(b).

27. See VA. CODE ANN. § 53.1-165.1 (Michie 2000) (abolishing parole for defendants convicted of felony offenses committed on or after January 1, 1995).

28. 519 S.E.2d 602 (Va. 1999).

29. *Yarbrough v. Commonwealth*, 519 S.E.2d 602, 616 n.11 (Va. 1999). *Yarbrough* emphasized that the defendant must request such an instruction. *Id.*

30. *Id.*

31. VA. CODE ANN. § 19.2-264.4 (Michie 2000).

32. For an example of a "life means life" instruction, see VA. MODEL JURY INSTRUCTIONS CRIMINAL No. 33.126 (Lexis Law Publishing 1999).

33. Frank Green, *Ramdass Executed in Killing 7-Eleven Clerk was 1992 Victim*, RICH. TIMES-DISPATCH, Oct. 11, 2000, at B1.

would never have been parole-eligible.<sup>34</sup> Two of the jurors asked Governor Jim Gilmore to grant clemency to Ramdass, one stating that he “believe[d] the outcome of the verdict would have been very different if [life without parole] had indeed been an option.”<sup>35</sup>

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34. Frank Green, *Jurors Seek Execution Block*, RICH. TIMES-DISPATCH, Oct. 10, 2000, at B1.

35. *Id.*

