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Williams (Michael) v. Taylor

120 S. Ct. 1479 (2000)

I. Facts

On February 23, 1993, Verena Lozano James ("James") drove Michael Wayne Williams ("Williams") and Jeffrey Alan Cruse ("Cruse") to a rural area of Cumberland County, Virginia. Armed with a .357 revolver, Williams and Cruse planned to rob a store in the area, but found that it was closed. Williams and Cruse walked to the home of Morris Keller, Jr. and his wife, Mary Elizabeth Keller. When Mr. Keller answered Cruse's knock, Williams and Cruse forced their way into the house and searched the house for valuables to steal. Williams and Cruse each raped Mrs. Keller. Williams ordered the Kellers to shower and dress, and told them they were going to "take a walk," and that he and Cruse were going to burn down the house.¹

Williams and Cruse took the Kellers away from the house down a dirt road. The two men agreed to shoot the Kellers on the count of three. Williams shot Mr. Keller in the head, but Cruse did not shoot Mrs. Keller at the same time. Williams told Cruse to shoot Mrs. Keller. Cruse fired one shot into Mrs. Keller's head. Mr. Keller stood up and Williams shot him in the head a second time. Williams shot each of the Kellers two or three more times to be certain that they were dead.²

Williams and Cruse then returned to the Kellers' house, loaded the stolen property into the Kellers' car, and set the house on fire. The two men drove the car to Fredericksburg, Virginia and subsequently sold some of the stolen property. They then threw the rest of the stolen items and the .357 revolver into the Rappahannock River. Williams and Cruse ultimately burned the stolen car.³

Police interviewed Cruse about the fire at the Kellers' home, but he was not cooperative. When the Kellers' bodies were found Cruse conferred with counsel, eventually obtaining a plea bargain. The Commonwealth agreed to forgo seeking the death penalty in exchange for Cruse providing them with complete information about the crimes. The Commonwealth rescinded Cruse's plea agreement when it discovered that Cruse had omitted the fact that he raped Mrs. Keller.⁴

1. Williams v. Taylor, 120 S.Ct. 1479, 1484 (2000).

2. *Id.* at 1484-85.

3. *Id.* at 1485.

4. *Id.*

At his trial in January 1994, Williams was convicted of robbery, abduction, rape and the capital murders of the Kellers.⁵ The jury recommended a death sentence after finding the presence of both aggravating factors, vileness and future dangerousness.⁶ The Supreme Court of Virginia affirmed the convictions and death sentence.⁷ Williams filed a habeas corpus petition in the Supreme Court of Virginia, but the court dismissed the petition.⁸

On November 20, 1996, Williams filed a habeas corpus petition in the United States District Court for the Eastern District of Virginia.⁹ Williams asserted the following four claims: (1) the Commonwealth failed to disclose a second, informal plea agreement with Cruse that provided for a life sentence recommendation for Cruse in exchange for his testimony against Williams; (2) the Commonwealth, in violation of *Brady v. Maryland*,¹⁰ failed to disclose a psychiatric report on Cruse; (3) the trial was tainted by the bias of a juror who had not been forthcoming about her relationships with the Commonwealth's lead witness and one of the prosecutors in the case; and (4) the attorney for the Commonwealth had committed misconduct in failing to advise the court of the juror's omissions.¹¹ The district court granted a hearing on the issues of the undisclosed agreement, juror bias, and prosecutorial misconduct.¹² Before the scheduled hearing the Commonwealth petitioned the United States Court of Appeals for the Fourth Circuit for an emergency stay and a writ of mandamus and prohibition.¹³ The Fourth Circuit granted the emergency stay and remanded the case for the district court to apply 28 U.S.C. § 2254(e)(2) to Williams's petition.¹⁴ On

5. *Id.*

6. *Id.*

7. *Id.*

8. *Id.*

9. *Id.*

10. 373 U.S. 83 (1963).

11. *Williams*, 120 S.Ct. at 1485-86; see *Brady v. Maryland*, 373 U.S. 83, 87 (1963) (requiring prosecutors to provide, upon request, material evidence favorable to the accused).

12. *Williams*, 120 S.Ct. at 1486.

13. *Id.*

14. *Id.*; see 28 U.S.C. § 2254(e)(2) (1996). The statute mandates that:

(2) If the applicant has failed to develop the factual basis of a claim in State court proceedings, the court shall not hold an evidentiary hearing on the claim unless the applicant shows that -

(A) the claim relies on -

(i) a new rule of constitutional law, made retroactive to cases on collateral review by the Supreme Court, that was previously unavailable; or

(ii) a factual predicate that could not have been previously discovered through the exercise of due diligence; and

(B) the facts underlying the claim would be sufficient to establish by clear and convincing evidence that but for constitutional error, no reasonable factfinder would have found the applicant guilty of the underlying offense.

28 U.S.C. § 2254(e)(2) (1996).

remand, the district court ruled that Williams's petition did not satisfy the standards set forth in 28 U.S.C. § 2254(e)(2), and dismissed the petition.¹⁵

The Fourth Circuit affirmed the district court's dismissal of Williams's petition.¹⁶ The court held that Williams was not diligent in his efforts to develop his claims in state court, and thus had "failed to develop" the factual bases of the claims involving juror bias, prosecutorial misconduct, and the alleged *Brady* violation.¹⁷ The Fourth Circuit found that Williams could not meet the specifications found in 28 U.S.C. § 2254(e)(2) for curing his failure to develop the facts in state court.¹⁸ The Fourth Circuit held that Williams was barred from receiving an evidentiary hearing.¹⁹ The court also rejected, under 28 U.S.C. § 2254(d)(1), Williams's claim that the Commonwealth failed to disclose an informal plea agreement with Cruse.²⁰

Approximately one hour before Williams's scheduled execution on October 18, 1999, the United States Supreme Court stayed the execution and granted certiorari to consider whether Williams was barred by 28 U.S.C. § 2254(e)(2) from receiving an evidentiary hearing on his claims of a *Brady* violation, juror bias, and prosecutorial misconduct.²¹

II. Holding

The United States Supreme Court affirmed the Fourth Circuit's denial of Williams's habeas corpus petition in part, and reversed in part.²² The Court held that language in 28 U.S.C. § 2254(e)(2) "failed to develop the factual basis of a claim" indicates fault, including lack of diligence, on the part of a petitioner.²³ The Court found that Williams lacked diligence with respect to his *Brady* claim regarding the psychiatric report on Cruse.²⁴ The

15. *Williams*, 120 S.Ct. at 1486.

16. *Id.*

17. *Id.*

18. *Id.*; see 28 U.S.C. § 2254(e)(2).

19. *Williams*, 120 S.Ct. at 1486.

20. *Id.*; see 28 U.S.C. § 2254(d)(1) (1996). The statute mandates that:

(d) An application for a writ of habeas corpus on behalf of a person in custody pursuant to the judgment of a State court shall not be granted with respect to any claim that was adjudicated on the merits in State court proceedings unless the adjudication of the claim -

(1) resulted in a decision that was contrary to, or involved an unreasonable application of, clearly established Federal law, as determined by the Supreme Court of the United States.

28 U.S.C. § 2254(d)(1) (1996).

21. *Williams*, 120 S.Ct. at 1486.

22. *Id.*

23. *Id.* at 1487.

24. *Id.* at 1491. The Court found that the report was in existence at the time of Williams's state habeas petition and could have been discovered with due diligence. *Id.* Williams conceded that he could not meet 28 U.S.C. § 2254(e)(2)'s stringent standard of showing that, but for the alleged constitutional error, no reasonable factfinder could have

Court held that Williams was diligent in his efforts to develop his claims of prosecutorial misconduct and juror bias.²⁵ The Court remanded the case for further proceedings regarding those two claims.²⁶

III. Analysis / Application in Virginia

The factual basis for Williams's claims of juror bias and prosecutorial misconduct involved a juror's and a prosecutor's silence during voir dire in the face of the trial judge's questions asking whether any juror was related to any witness, and whether any juror had previously been represented by any of the lawyers involved in Williams's case.²⁷ The juror who eventually became the foreperson remained silent when the question regarding whether any juror was related to any witness was asked, despite the fact that she and the Commonwealth's lead witness had been married for seventeen years and had four children together.²⁸ The same juror also remained silent when the trial judge asked if anyone had been represented by any attorney involved with the case, despite the fact that one of the prosecutors had represented her during her divorce from the aforementioned witness.²⁹ The prosecutor in question also remained silent and failed to alert the court to the juror's possible sources of bias.³⁰ Additionally, Williams claimed that the Commonwealth violated *Brady* by failing to disclose a psychiatric report about his accomplice Cruse.³¹ The report was written in 1993, before Williams's trial.³² In 1995, Williams's attorney wrote a letter requesting that the Commonwealth disclose psychological reports regarding the Commonwealth's witnesses.³³ The Commonwealth refused to comply with the request, and Williams did not make any further attempts to discover such material.³⁴

The Commonwealth argued that the Anti-Terrorism and Effective Death Penalty Act of 1996 ("AEDPA")³⁵ barred Williams from obtaining an evidentiary hearing on claims for which the factual bases were not raised

found him guilty of capital murder. *Id.* at 1492.

25. *Id.* at 1492.

26. *Id.* at 1495.

27. *Id.* at 1492.

28. *Id.*

29. *Id.*

30. *Id.* at 1493.

31. *Id.* at 1491; see *Brady v. Maryland*, 373 U.S. 83, 87 (1963) (requiring prosecutors to provide, upon request, material evidence favorable to the accused).

32. *Williams*, 120 S.Ct. at 1491.

33. *Id.* at 1492.

34. *Id.*

35. Anti-Terrorism and Effective Death Penalty Act, Pub. L. No. 104-132, 110 Stat. 1214 (1996) (amending 28 U.S.C. Title 153).

in state court.³⁶ The Commonwealth urged the Court to adopt a no-fault interpretation of 28 U.S.C. § 2254(e)(2).³⁷ Williams argued that AEDPA did not bar an evidentiary hearing on his claims, because although he exercised due diligence in preparing his state habeas petition, he did not know the underlying facts of his claims at the time and therefore could not have asserted those claims in his state habeas petition.³⁸ The Court agreed with Williams's argument that the "failed to develop" language in 28 U.S.C. § 2254(e)(2) requires an element of fault on the part of the petitioner.³⁹ The Court found that "[i]n its customary and preferred sense, 'fail' connotes some omission, fault, or negligence on the part of the person who has failed to do something" and that Congress intended to use the word "failed" in such a sense.⁴⁰ The Court explained that diligence means making "a reasonable attempt, in light of the information available at the time, to investigate and pursue claims in state court."⁴¹

The Court supported its interpretation of the "failed to develop" language of 28 U.S.C. § 2254(e)(2) by looking to its decision in *Keeney v. Tamayo-Reyes*.⁴² *Keeney* involved a prisoner's failure to develop the factual basis of his federal claim in state habeas proceedings.⁴³ The Court paraphrased the relevant portion of its holding in *Keeney* as "prisoners who are at fault for the deficiency in the state-court record must satisfy a heightened

36. *Williams*, 120 S.Ct. at 1486.

37. *Id.* at 1487.

38. *Id.* at 1486.

39. *Id.* at 1488.

40. *Id.*

41. *Id.* at 1490. The due diligence standard announced in *Williams* applies to state habeas corpus counsel's efforts to discover pre-existing *Brady* violations. *Id.* This case has no effect on a prosecutor's obligation to disclose *Brady* materials as articulated in *Strickler v. Greene*. In that case, the United States Supreme Court stated:

In *Brady* this court held "that the suppression by the prosecution of evidence favorable to an accused upon request violates due process where the evidence is material to either guilt or to punishment, irrespective of the good faith or bad faith of the prosecution." We have since held that the duty to disclose such evidence is applicable even though there has been no request by the accused, and that the duty encompasses impeachment evidence as well as exculpatory evidence. Such evidence is material "if there is a reasonable probability that, had the evidence been disclosed to the defense, the result of the proceeding would have been different." Moreover, the rule encompasses evidence "known only to police investigators and not to the prosecutor." In order to comply with *Brady*, therefore, "the individual prosecutor has a duty to learn of any favorable evidence known to the others acting on the government's behalf in this case, including the police."

Strickler v. Greene, 527 U.S. 263, 280-81 (1999) (citations omitted).

42. *Williams*, 120 S.Ct. at 1488-89; see *Keeney v. Tamayo-Reyes*, 504 U.S. 1, 11 (1992) (holding that in order to receive an evidentiary hearing a habeas petitioner must show cause for his failure to develop properly a claim in state court and actual prejudice resulting therefrom).

43. *Keeney*, 504 U.S. at 1.

standard to obtain an evidentiary hearing."⁴⁴ The Court stated that Congress must have intended to retain the fault element of *Keeney's* holding in 28 U.S.C. § 2254(e)(2).⁴⁵ Otherwise, Congress could have changed the language of the statute to read "did not" instead of using the word "failed."⁴⁶

Applying the diligence standard to the facts in *Williams's* case, the Supreme Court found that "[t]he trial record contains no evidence which would have put a reasonable attorney on notice that [the juror's] non-response was a deliberate omission of material information."⁴⁷ Thus, there was no reason for *Williams* to have investigated the juror's public marriage records.⁴⁸ Because *Williams* did not fail to develop his claims regarding juror bias and prosecutorial misconduct, he was not required to meet the strict requirements of 28 U.S.C. § 2254(e)(2) with regard to those claims.⁴⁹ The Court found, however, that *Williams's* efforts to discover the psychiatric report on *Cruse* were not sufficient to meet its standard of diligence.⁵⁰ *Williams's* lack of diligence in developing his *Brady* claim regarding the Commonwealth's alleged failure to disclose *Cruse's* psychiatric report subjected that claim to the standards of 28 U.S.C. § 2254(e)(2) and the claim was barred.⁵¹

Williams shows that a petitioner will not default a claim for failure to discover facts when the misconduct or omission of another party prevented him from discovering those facts or having a reason to investigate or find those facts. Although the standards set forth in 28 U.S.C. § 2254(e)(2) are stringent, they will not be applied to a petitioner who has exercised due diligence. The petitioner's effort to develop the factual bases of his claims is determinative. It is irrelevant whether *Williams* could have discovered the facts by exerting the effort to search every public record pertaining to every single juror. It is sufficient that *Williams* exercised due diligence in developing the claims that were available to him at the time of his state habeas corpus petition. Claims based on factual information that was unavailable to a petitioner through no fault of his own will not be barred so long as the petitioner has not neglected his duties to develop evidence in state court.

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44. *Williams*, 120 S.Ct. at 1489 (citing *Keeney*, 504 U.S. at 11).

45. *Id.*

46. *Id.* at 1488.

47. *Id.* at 1493.

48. *Id.* at 1494. In fact, *Williams* sought to investigate jury improprieties but the Supreme Court of Virginia denied his motion for a court-funded investigator because of the vagueness of the request. *Id.* at 1493.

49. *Id.* at 1494.

50. *Id.* at 1491-92.

51. *Id.* at 1492.