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Williams (Terry) v. Taylor 120 S. Ct. 1495 (2000)

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I. Facts

Harris Thomas Stone ("Stone") was found dead at his residence around 2:00 a.m. on Sunday, November 3, 1985. There was no sign of a struggle nor was any blood observed on Stone's body, but his wallet was missing. The medical examiner examined the body that morning and noted an abrasion on the chest, but drew no conclusions based upon that evidence. The examiner concluded that Stone died of heart failure. The results of a blood alcohol content test revealed Stone's content to be .41%; this caused the Roanoke medical examiner's office to amend the cause of death to blood alcohol poisoning. The next day, the funeral director, Jack Miller ("Miller"), observed a bruise over the left rib cage of Stone's body and alerted the police. The medical examiner dismissed the bruise as an old one and Miller embalmed the body.[1]

Approximately six months later, Danville's chief of police received an anonymous letter from a local jail inmate in which the author admitted killing Stone. Police discovered that Terry Williams ("Williams") wrote the letter and Williams later gave multiple confessions to the murder and robbery of Stone. Williams said that Stone would not give Williams money, so he struck Stone on the chest and back with a mattock. Williams took Stone's wallet and removed three dollars. Stone's body was exhumed and an autopsy was performed. The autopsy revealed that two ribs on the left side had been broken and punctured the left lung allowing blood into the left chest cavity, causing Stone's death.[2]

A jury convicted Williams on September 30, 1986, of capital murder in the Circuit Court of the City of Danville. At the sentencing phase of the trial, the jury recommended that Williams be sentenced to death based upon finding the aggravator of future dangerousness.[3] On direct appeal, the

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1. Williams v. Commonwealth, 360 S.E.2d 361, 363 (Va. 1987).

2. *Id.* at 364. In an appeals affidavit, a medical examiner from Georgia said that it was impossible to determine that the death resulted from the mattock. The examiner said that the pierced lungs could have resulted from defective embalming. A neighbor, who did not testify at trial, saw Stone fall on some concrete steps on the evening of his death. Frank Green, *Life or Death? Danville Case Poses Key Question for High Court*, RICH. TIMES-DISPATCH, Jan. 8, 2000, at A1.

3. Williams v. Taylor, 120 S. Ct. 1495, 1500 (2000); *see* VA. CODE ANN. § 19.2-264.4(C) (Michie 2000) (establishing penalty of death may only be imposed if the Commonwealth proves beyond a reasonable doubt, at sentencing, that the defendant presents a

Supreme Court of Virginia affirmed Williams's conviction and death sentence.[4] The United States Supreme Court denied Williams's petition for a writ of certiorari.[5] Williams filed a petition for a writ of habeas corpus in the Danville Circuit Court on August 26, 1988. The court held a hearing and dismissed the majority of Williams's claims. Seven years later, Williams amended his habeas petition in the circuit court to include several claims that his trial counsel was ineffective. The Supreme Court of Virginia subsequently assumed jurisdiction, but requested that the circuit court issue findings of fact and legal recommendations to the Supreme Court of Virginia.[6] In June 1995, the circuit court held an evidentiary hearing on the new claims of ineffective assistance of counsel. The circuit court found that the conviction was valid, but that the sentencing was infirm because counsel did not present essential mitigating evidence. The circuit court forwarded its findings to the Supreme Court of Virginia.[7]

On June 6, 1997, the Supreme Court of Virginia held that the lack of mitigating evidence did not prejudice the defendant under *Strickland v. Washington*,[8] and rejected the recommendation of the circuit court.[9] The court also relied upon *Lockhart v. Fretwell*[10] to find that the trial judge erred in his prejudice analysis by not inquiring into the fundamental fairness of the sentence.[11] The court concluded that there was not a reasonable probab-

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probability of future danger to society or that his conduct was vile).

4. *Williams*, 360 S.E.2d at 371.

5. Williams v. Virginia, 484 U.S. 1020 (1988).

6. Williams v. Warden, 487 S.E.2d 194, 195-96 (Va. 1997). The case was transferred to the Supreme Court of Virginia pursuant to a 1995 Amendment to Virginia Code § 8.01-654, which added subsection (C). *See* VA. CODE ANN. § 8.01-654(C)(1) (Michie 2000) ("With respect to [a habeas] petition filed by petitioner held under the sentence of death . . . the Supreme Court [of Virginia] shall have exclusive jurisdiction to consider and award writs of habeas corpus.").

7. Williams v. Taylor, 163 F.3d 860, 864 (4th Cir. 1998).

8. 466 U.S. 668 (1984).

9. *Williams*, 163 F.3d at 864-65; *see* Strickland v. Washington, 466 U.S. 668, 694 (1984) (providing that a defendant was prejudiced if there is a "reasonable probability that, but for counsel's unprofessional errors, the result of the proceeding would have been different").

10. 506 U.S. 364 (1993).

11. *Williams*, 487 S.E.2d at 198; *see* Lockhart v. Fretwell, 506 U.S. 364, 369 (1993) (finding that "an analysis focusing solely on mere outcome determination, without attention to whether the result of the proceeding was fundamentally fair or unreliable, is defective").

The Court cited this as error because the Supreme Court of Virginia relied upon *Lockhart*. Specifically, in Part IV of its opinion, the Court said that *Lockhart* does not justify a departure from a "straightforward application of *Strickland* when the ineffectiveness of counsel does deprive the defendant of a substantive or procedural right to which the law entitles him." *Williams*, 120 S. Ct. at 1513. The Court implied that if an individual instance of poor lawyering does not amount to ineffectiveness, there is the possibility of the court finding ineffective assistance of counsel based on cumulative deficiencies of trial counsel. The Supreme Court conclusion rejects the Fourth Circuit's proposition in *Fisher v. Angelone* that

ility that the presentation of the mitigating evidence would have affected the jury's sentencing recommendation.[12]

Williams then filed a petition for a federal writ of habeas corpus pursuant to 28 U.S.C. § 2254.[13] The United States District Court for the Eastern District of Virginia, after reviewing the state habeas documents, agreed with the circuit court that the sentence imposed was constitutionally infirm. The court went to great lengths to identify the degree and volume of mitigating evidence that trial counsel omitted. The state court records revealed that trial counsel did not introduce the following: (1) evidence that Williams was abused by his father; (2) testimony of correctional officers who would testify that Williams was not a danger while incarcerated; (3) prison commendations for Williams's assistance in breaking up a drug ring and returning a warden's wallet; (4) character witnesses; (5) evidence that Williams was borderline mentally retarded; and (6) juvenile records of the Williams's home in reprehensible conditions with feces, urine, and trash on the floor, filthy children, and intoxicated parents and children.[14] The district court flatly rejected the contention that the decision not to introduce this evidence was strategic.[15] The court held that the Supreme Court of Virginia's finding that *Lockhart* modified *Strickland* was erroneous.[16] The district court further held, pursuant to 28 U.S.C. § 2254(d)(1), that the Supreme Court of Virginia's decision was "contrary to" or "an unreasonable application of" federal law.[17]

The Commonwealth appealed and Williams cross-appealed to the United States Court of Appeals for the Fourth Circuit. The Fourth Circuit held that the Supreme Court of Virginia's decision on the issue of prejudice

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deficient attorney conduct cannot be cumulated to find ineffective assistance of counsel. Fisher v. Angelone, 163 F.3d 835, 852 (1998) (providing that an ineffective assistance of counsel claim may only be made for single act of ineffective lawyering).

12. *Williams*, 120 S. Ct. at 1502.

13. *Id.*; *see* Anti-Terrorism and Effective Death Penalty Act, Pub. L. No. 104-132, § 104, 110 Stat. 1214, 1218-19 (1996) (codified as amended at 28 U.S.C. § 2254 (Supp. III 1997)).

14. *Williams*, 120 S. Ct. at 1502 n.4. Williams has an IQ of 69, and may suffer from fetal alcohol syndrome due to his mother's admitted drinking during her pregnancy with Williams. Green, *supra* note 2, at A1.

15. *Williams*, 120 S. Ct. at 1502.

16. *Id.* The district court specifically ruled that the Supreme Court of Virginia's application of *Strickland* and *Lockhart* was unreasonable because *Lockhart* did not modify the prejudice standard and also held that the Supreme Court of Virginia made an important error of fact in assessing prejudice: "The Virginia Supreme Court ignored or overlooked the evidence of Williams' difficult childhood and abuse and his limited mental capacity." *Id.* at 1502 n.5.

17. *Id.* at 1502-03; *see* 28 U.S.C. § 2254(d)(1) (Supp. III 1997) (barring a grant of writ of habeas corpus unless the state court's decision was contrary to clearly established federal law or an unreasonable application of clearly established federal law).

was not an unreasonable application of *Strickland* or *Lockhart*.[18] The Fourth Circuit reasoned that the standard of review under 28 U.S.C. § 2254(d)(1) prohibited the grant of habeas relief unless the state court decided the question by interpreting or applying the relevant precedent in a manner that all reasonable jurists would agree is unreasonable.[19] The Fourth Circuit relied on the "overwhelming evidence" of future dangerousness to find that Williams did not suffer prejudice.[20] Upon petition, the United States Supreme Court granted certiorari.[21]

II. Holding

The United States Supreme Court reversed and remanded to the trial court for a new sentencing proceeding.[22] The Court found that Williams's constitutional right to effective assistance of counsel was violated and the judgment of the Supreme Court of Virginia in refusing to set aside his death sentence was "contrary to, or involved an unreasonable application of, clearly established Federal law, as determined by the Supreme Court of the United States."[23]

III. Analysis / Application in Virginia

The Court's holding on the ineffective assistance of counsel claim is a standard application of the *Strickland* prejudice test and does not reveal a new approach or analysis. The import of this case surrounds the application and interpretation of the Anti-Terrorism and Effective Death Penalty Act of 1996 ("AEDPA"), which amended 28 U.S.C. § 2254 to change the standard for federal review of a habeas petition by a state prisoner.[24] Defense attorneys must be acutely aware of the connotations and interpretations which accompany the federal standard of review of habeas petitions in order to present an effective argument for the grant of a habeas petition.

A. AEDPA Effects Two Independent Inquiries

The Court's opinion on the proper interpretation of the language of AEDPA is found in Part II of Justice O'Connor's opinion. Justice

18. *Williams*, 163 F.3d at 865.

19. *Id.* (quoting Green v. French, 143 F.3d 865, 870 (4th Cir. 1998) (stating that "habeas relief is authorized only when the state courts have decided the question by interpreting or applying the relevant precedent in a manner that reasonable jurists would all agree is unreasonable")).

20. *Id.* at 868.

21. Williams v. Taylor, 526 U.S. 1050 (1999).

22. *Williams*, 120 S. Ct. at 1516.

23. *Id.* at 1499 (quoting 28 U.S.C. § 2254(d)(1) (Supp. III 1997)).

24. The language in 28 U.S.C. § 2254(d)(1) effects the change in standard of review, permitting a grant of a petition for writ of habeas corpus only when the state court proceeding "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).

O'Connor asserts that Justice Stevens's interpretation of AEDPA in his concurring opinion does not institute a new standard of review, but rather retains the previous rule of plenary review of the state court's decision.[25] Justice Stevens's construction of 28 U.S.C. § 2254(d)(1) requires "careful weighing" of the state court's decision and a grant of a habeas petition rests upon the "independent judgment" of the federal court.[26] The standard for pre-AEDPA habeas review is found in *Miller v. Fenton*[27] and the Court contends that it closely mirrors Stevens's approach.[28] *Miller* construed the federal court's role in review of a habeas petition of a state prisoner as an "independent federal determination."[29] The Court asserted that Congress intended to institute habeas reform to prevent retrials, to give effect to state convictions, and to curb delays. Therefore, Congress did not amend 28 U.S.C. § 2254 in order to replicate the present federal standard of review.[30] The Court thoroughly addressed the rule of statutory construction, which mandates that every word of a statute be given effect.

The Court concluded that the language of 28 U.S.C. § 2254(d)(1) dictated an independent inquiry for both the "contrary to" clause and "unreasonable application" clause.[31] Concerning the first inquiry, the Court adopted the common understanding of the word "contrary": "diametrically different . . . opposite in character or nature . . . or mutually opposed."[32] The Court found that the decision of the state court is "contrary to" federal law if the state court applies a rule that contradicts the governing law set forth in Supreme Court cases.[33] The state court decision is also "contrary to" federal law if the state court confronts a set of facts that are indistinguishable from a previous decision of the United States Supreme Court and yet arrives at a result different from that arrived at in the precedent.[34]

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25. *Williams*, 120 S. Ct. at 1518.

26. *Id.* at 1511.

27. 474 U.S. 104 (1985).

28. *Williams*, 120 S. Ct. at 1518; *see* Miller v. Fenton, 474 U.S. 104, 112 (1985) (requiring that the federal court "should, of course, give great weight to the considered conclusions of a coequal state judiciary").

29. *Miller*, 474 U.S. at 112.

30. *Williams*, 120 S. Ct. at 1518.

31. *Id.* at 1519; see 28 U.S.C. § 2254(d)(1) ("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; . . . .").

32. *Williams*, 120 S. Ct. at 1519.

33. *Id.*

34. *Id.* at 1520.

Justice O'Connor, writing for the Court, proceeded to identify a body of cases in which the proper legal rule was applied yet the state court decision was not correct. The Court asserted that this body of cases does not fit within the rubric of the "contrary to" clause.[35] As a result, the Court refused to adopt Justice Stevens's broad construction of the "contrary to" clause because it blurred the lines of the two inquiries in the statute, rendering the "unreasonable application" language a "nullity."[36] A state court decision warrants a grant of habeas relief because of an "unreasonable application" of federal law if the state court identifies the correct governing legal rule, but unreasonably applies it to the facts of the particular prisoner's case.[37] The state court decision is also an "unreasonable application" of federal law if it either unreasonably extends a legal principle to a new context to which it should not apply or unreasonably refuses to extend a principle to a new context in which it should apply.[38]

B. The Fourth Circuit Erroneously Applied the "Reasonable Jurist" Standard

The Fourth Circuit in *Williams* erroneously employed the *Green* construction of the "unreasonable application" clause of 28 U.S.C. § 2254(d)(1).[39] According to the Fourth Circuit, a state court decision is an unreasonable application of federal law if applied "in a manner that all reasonable jurists would agree is unreasonable."[40] The Court dismissed this interpretation of the clause as unworkable and misleading. The Fourth Circuit's construction of the clause directs federal courts down the winding road of subjective inquiry rather than the direct path of an objective inquiry. The "reasonable jurist" standard erroneously focuses on the minds of jurists and their interpretations of a state court's decision.[41]

Justice O'Connor's majority opinion continued at some length to delineate what "unreasonable application" is not.[42] Primarily, the Court

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35. *Id.*

36. *Id.* ("On the other hand, a run-of-the-mill state-court decision applying the correct legal rule from our cases to the facts of a prisoner's case would not fit comfortably within § 2254(d)(1)'s 'contrary to clause' . . . Justice Stevens would construe § 2254(d)(1)'s 'contrary to' clause to encompass such a state-court decision. That construction, however, saps the 'unreasonable application' clause of any meaning.").

37. *Id.*; *see also* Green v. French, 143 F.3d 865, 870 (4th Cir. 1998).

38. *Williams*, 120 S. Ct. at 1519.

39. *Williams*, 163 F.3d at 865.

40. *Id.*; *see Green*, 143 F.3d at 870.

41. *Williams*, 120 S. Ct. at 1521-22 ("The federal habeas court should not transform the inquiry into a subjective one by resting its determination instead on the simple fact that at least one of the Nation's jurists has applied the relevant federal law in the same manner the state court did in the habeas petitioner's case.").

42. *Id.* at 1522 ("Under § 2254(d)(1)'s 'unreasonable application' clause, then, a federal habeas court may not issue the writ simply because that court concludes in its independent

belabored the point to ensure a clear distinction between a decision that is simply wrong and one that is unreasonable.[43] The Court's opinion stressed the actual language of the statute and the congressional intent of the words chosen. Congress did not elect to make the inquiry into the state court decision one of whether the court was "erroneous" or "incorrect," but rather required that the state court decision evidence "unreasonable application" of federal law.[44] The distinction is evidenced by the Court's debate in *Wright v. West*.[45] The opinions of Justice Thomas and Justice O'Connor in that case reiterate the delineation that the Court and Congress desired be present between an incorrect state court decision and an unreasonable one.[46]

It is necessary to be aware that this case does not merely concern the semantics of a statute. The great pains with which the Court construed 28 U.S.C. § 2254(d)(1) is representative of a greater tension between the sovereignty of the states versus the power of the federal government over the several states. The portion of AEDPA that amended 28 U.S.C. § 2254(d)(1) was intended to, among other things, "give effect to state convictions to the extent possible under the law."[47] Justice Stevens's opinion broadly construed the statute by interpreting the language to permit federal courts' independent review of state habeas adjudications.[48] This approach grants the federal courts a broader scope of review and therefore greater power to overturn a state court's decision. Conversely, Justice Rehnquist, by narrowly interpreting the "unreasonable application" clause, gave a greater degree of deference to the state court's habeas adjudication and independence from federal interference.[49] It is important for the attorney to be aware of the jurisprudential backdrop the federal court may have in mind while reviewing a state adjudication of a habeas petition.

C. *Expansion of* Teague

The Court interpreted "clearly established Federal law, as determined by the Supreme Court" to be a further development of the standard set forth in *Teague v. Lane*.[50] The Court in *Teague* held that a federal court may

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judgment that the relevant state court decision applied clearly established federal law erroneously or incorrectly.").

43. *Id.* at 1523.

44. *Id.* at 1522.

45. Wright v. West, 505 U.S. 277, 287 (1992) (criticizing the Court's prior "satisfactory conclusion" test because it did not answer "whether the 'satisfactory conclusion'" of the state court was determined correct by the federal court or just not unreasonable).

46. *Williams*, 120 S. Ct. at 1522.

47. *Id.* at 1509 (Stevens, J., concurring).

48. *Id.* at 1511 (Stevens, J., concurring).

49. *Id.* at 1525-27 (Rehnquist, C.J., concurring in part and dissenting in part).

50. *Id.* at 1523; *see* Teague v. Lane, 489 U.S. 288, 301 (1989) (establishing that federal

not use a rule that broke new ground or imposed a new obligation on the states after the prisoner's state court conviction.[51] In furthering the analysis, the Court said that whatever would qualify as an "old rule" under the *Teague* test will constitute "clearly established Federal law" under 28 U.S.C. § 2254(d)(1).[52] AEDPA took another step in defining "clearly established Federal law" as it restricted the body of jurisprudence from which the federal courts may draw to review a state habeas petition to that of the United States Supreme Court.[53] Justice Stevens's concurring opinion went one step further and argued that the AEDPA actually codified *Teague* to the extent that it required federal court to deny habeas relief if it is contingent upon a rule of law that was not clearly established at the time of the state conviction.[54] The "new rule" test of *Teague* is the functional equivalent of the statutory provision commanding exclusive reliance upon clearly established law, and Justice Stevens suggested that Congress had congruent steps in mind.[55] The effect of this relatively subtle portion of the opinion is that it directs practitioners to be alert to the body of law relied upon by the federal court in its habeas review and to remind the federal court of its statutory scope of review.

IV. Epilogue

On November 14, 2000, Williams agreed to a negotiated sentencing agreement whereby the Commonwealth agreed not to seek the death penalty, and Williams forfeited any opportunity to be paroled.[56] Danville Circuit Court Judge James F. Ingram accepted the agreement because it was "in the interest of justice."[57] Williams, forty five-years-old, will spend the rest of his life in prison.[58]

Jeremy P. White

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habeas court properly applies legal rules that are "dictated by precedent at the time the defendant's conviction became final").

51. *Teague*, 489 U.S. at 301 (prohibiting federal courts from retroactively applying new rules to a prisoner who is petitioning for federal habeas relief); *see Williams*, 120 S. Ct. at 1506.

52. *Williams*, 120 S. Ct. at 1523.

53. *Id.*

54. *Id.* at 1506.

55. *Id.*

56. Brooke A. Masters, *Deal Gets Inmate Off Death Row; U.S. High Court Intervened, Citing Virginia Man's Deplorable Defense*, WASH. POST, Nov. 15, 2000, at B1. Williams's crimes occurred before January 1, 1995 when defendants convicted of capital murder became ineligible for parole. *See* VA. CODE ANN. § 53.1-165.1 (Michie 2000) (providing that "[a]ny person sentenced to a term of incarceration for a felony offense committed on or after January 1, 1995, shall not be eligible for parole upon that offense").

57. *Id.*

58. *Id.*

CASE NOTES:

United States Court of Appeals for the Fourth Circuit