Capital Defense Journal

Volume 16 | Issue 1 Article 8

Fall 9-1-2003

Woodford v. Garceau 123 S. Ct. 1398 (2003)

Woodford v. Garceau
123 S. Ct. 1398 (2003)

I. Facts

Robert Frederick Garceau ("Garceau") killed Maureen Bautista, his girlfriend, and Telesforo Bautista, her fourteen-year-old son. A California court convicted Garceau of first-degree murder and sentenced him to death. The Supreme Court of California denied post-conviction relief, and the United States Supreme Court denied certiorari.[1]

On May 12, 1995, Garceau moved for appointment of federal habeas counsel and a stay of execution in the United States District Court for the Eastern District of California.[2] The district court granted a forty-five day stay of execution.[3] On June 26, 1995, the court extended the stay another 120 days and appointed counsel.[4] Shortly thereafter, the State moved to vacate the stay partly because, in violation of a local court rule, Garceau had not filed a "specification of nonfrivolous issues."[5] Garceau filed the document, and on October 13, 1995, after denying the State's motion, the court ordered Garceau to file a habeas petition within nine months.[6]

On April 24, 1996, the Antiterrorism and Effective Death Penalty Act of 1996 ("AEDPA") became effective.[7] In *Lindh v Murphy*,[8] the United States Supreme Court held that AEDPA would not apply to cases pending in federal court before AEDPA's effective date.[9] Garceau filed his federal habeas application in the district court on July 2, 1996.[10] Although Garceau filed his application after AEDPA became effective, the district court decided that, under circuit precedent, AEDPA did not apply to Garceau's petition for habeas relief.[11] The

---

1. Woodford v. Garceau, 123 S. Ct. 1398, 1400 (2003).
2. *Id.*
3. *Id.*
4. *Id.*
5. *Id.*
6. *Id.*
7. *Woodford*, 123 S. Ct. at 1400; *see* Antiterrorism and Effective Death Penalty Act of 1996, Pub. L. No. 104-132, 110 Stat. 1214 (codified as amended at 28 U.S.C. §§ 2244–2264 (2000)) (amending the procedures for review of habeas corpus petitions in federal court).
8. 521 U.S. 320 (1997).
9. Lindh v. Murphy, 521 U.S. 320, 322–23 (1997).
10. *Woodford*, 123 S. Ct. at 1400.
11. *Id.*

district court, however, denied Garceau relief on the merits of his habeas claim.[12] The Court of Appeals for the Ninth Circuit also concluded that AEDPA did not apply to Garceau's application but reversed the district court's denial of habeas relief and granted Garceau relief on the merits.[13]

II. Holding

The United States Supreme Court found that *Lindh* removed a case from the reach of AEDPA only if the petitioner had an application for habeas relief on the merits pending before a federal court on the day AEDPA became effective.[14] Garceau had filed motions for appointment of counsel, stays of execution, and a "specification of nonfrivolous issues" before the day AEDPA became effective but had not yet filed his application for a writ of habeas corpus.[15] Therefore, the Court determined that Garceau's application was subject to AEDPA, reversed the Court of Appeals, and remanded the case.[16]

III. Analysis

The Court held that in light of the statutory language of 28 U.S.C. § 2254(e)(1), a case should only be considered pending for the purposes of *Lindh* once an application for a writ of habeas corpus has been filed.[17] The Court relied on the fact that § 2254(e)(1) applies to proceedings "instituted by an application for a writ of habeas corpus."[18] If a habeas case could be commenced by an application for counsel or a stay, the Court reasoned, the presumption in § 2254(e)(1) would almost never apply because it affects only cases commenced by an application for a writ of habeas corpus, and most federal habeas prisoners first file an application for a stay or counsel.[19] The Court decided Congress could not have meant for an applicant to avoid the stringent requirement of § 2254(e)(1) simply by first filing an application for a stay of execution or request for counsel.[20] As a result, the Court determined that the section only made sense if all federal habeas proceedings began with an application for a writ of habeas

---

12. *Id.* at 1400–01.
13. *Id.* at 1401.
14. *Id.* at 1402.
15. *Id.* at 1400.
16. *Woodford*, 123 S. Ct. at 1403.
17. *Id.* at 1402; *see* 28 U.S.C. § 2254(e)(1) (2000) (requiring federal courts in federal habeas proceedings to presume factual findings in state courts were correct; part of AEDPA).
18. *Woodford*, 123 S. Ct. at 1402; *see* 28 U.S.C. § 2254(e)(1) (stating that the statute shall only apply to proceedings commenced by an application for a writ of habeas corpus; part of AEDPA).
19. *Woodford*, 123 S. Ct. at 1402.
20. *Id.*

corpus.[21] Consequently, if a petitioner filed an "application for habeas relief seeking an adjudication on the *merits* of the petitioner's claims" before April 24, 1996, AEDPA would not apply to that petitioner's claim.[22] Because Garceau filed his application for habeas relief after April 24, 1996, the Court held that AEDPA applied to his case.[23]

The Court also utilized Federal Rule of Civil Procedure 3 to support its holding that a habeas case was not pending until an application for a writ of habeas corpus had been filed.[24] Federal Rule of Civil Procedure 81(a)(2) provides that the Federal Rules of Civil Procedure apply in habeas corpus proceedings to the extent that other statutes do not require different procedural rules.[25] Rule 3 states that a "civil action is commenced by filing a complaint."[26] Because no habeas corpus statute contradicted Rule 3, and an application for a writ of habeas corpus equates to a complaint in a typical civil case, the Court concluded that a habeas case begins with the application for habeas relief.[27]

Garceau argued that the Court's prior holding in *McFarland v Scott*[28] dictated a different result.[29] A federal judge may stay any state proceeding when an application for habeas relief is pending before a federal court, pursuant to 28 U.S.C. § 2251.[30] In *McFarland*, the Court held that a motion for appointment of counsel commenced a federal habeas proceeding and a federal judge could then invoke § 2251 to stay a state proceeding after such a filing.[31] Therefore, Garceau

---

21. *Id.*

22. *Id.*

23. *Id.* at 1403. In her concurrence, Justice O'Connor argued that the Court failed to apply properly the rule it announced to Garceau's case because she believed Garceau did have an application before the Court seeking habeas relief on the merits in the form of his "specification of non-frivolous issues." *Id.* at 1404 (O'Connor, J., concurring). The majority responded that the document only alerted the district court to potential constitutional issues that might be raised and actually sought no relief. *Id.* at 1403 n.1.

24. *Id.* at 1402; *see* FED. R. CIV. P. 3 ("A civil action is commenced by filing a complaint with the court.").

25. FED. R. CIV. P. 81(a)(2) (applying the federal rules to habeas corpus proceedings to the extent they are not inconsistent with another statute).

26. FED. R. CIV. P. 3 (describing how a civil action is commenced).

27. *Woodford*, 123 S. Ct. at 1402.

28. 512 U.S. 849 (1994).

29. *Woodford*, 123 S. Ct. at 1402–03; *see* McFarland v. Scott, 512 U.S. 849, 857–58 (1994) (holding that a request for counsel initiates a habeas corpus proceeding, thereby conveying power to a federal judge to stay the state proceedings, pursuant to 28 U.S.C. § 2251).

30. 28 U.S.C. § 2251 (2000) (stating that a "justice or judge of the United States before whom a habeas corpus proceeding is pending, may, before final judgment or after final judgment of discharge, or pending appeal, stay any proceeding against the person detained in any State court or by or under the authority of any State for any matter involved in the habeas corpus proceeding"; part of AEDPA).

31. *McFarland*, 512 U.S. at 858.

contended that because the Court in *McFarland* found that an application for appointment of counsel began a federal habeas proceeding within the meaning of § 2251, the Court should find his case was pending after he filed his application for counsel for the purpose of applying *Lindh*.[32]

The Court disagreed.[33] The Court first noted that *McFarland* interpreted § 2251 not § 2254.[34] The Court also held that the reasoning in *McFarland* did not apply to Garceau's case in light of that opinion's special emphasis on protecting the right to counsel.[35] *McFarland* held that 21 U.S.C. § 848(q)(4)(B) grants an appellant the right to counsel before the appellant files a formal application for a writ of habeas corpus.[36] The Court noted that unless the district court was able to stay the state court proceedings, that right to counsel on habeas appeal "would have been meaningless."[37] Therefore, the Court in Garceau's case concluded that *McFarland* did not apply because of that decision's particular concern with protecting an appellant's right to counsel after conviction, a concern not present in Garceau's appeal.[38]

Garceau made a similar argument based on *Hohn v. United States*,[39] which the court also distinguished from Garceau's case.[40] In *Hohn*, the Court determined that a denial of an application for a certificate of appealability ("COA") could be appealed to higher courts because the COA constituted a case as contemplated by 28 U.S.C. § 1254(1).[41] The Court in *Hohn* noted that an application for a COA had all of the characteristics of a case, including adversity between the parties and a request for relief from a redressable injury.[42] In *Woodford*, the Court noted that although *Hohn* held that an application for a COA was a "case" for purposes of entitlement to appellate review, it did not hold that the case was " 'pending'

---

32. *See Woodford*, 123 S. Ct. at 1402 (stating that according to Garceau the Court's prior holding in *McFarland* "should inform" the Court's decision in *Woodford*).

33. *Id.*

34. *Id.*

35. *Id.* at 1403.

36. *McFarland*, 512 U.S. at 858; *see* 21 U.S.C. § 848(q)(4)(B) (1999) (stating that a defendant charged with a crime punishable by death is entitled to the services of an attorney before and after judgment).

37. *McFarland*, 512 U.S. at 857.

38. *Woodford*, 123 S. Ct. at 1403.

39. 524 U.S. 236 (1998).

40. *Woodford*, 123 S. Ct. at 1403; *see* Hohn v. United States, 524 U.S. 236, 241 (1998) (holding that an application for a certificate of appealability constitutes a case).

41. *See Hohn*, 524 U.S. at 241 (holding that an application for a COA constituted a "case" within the meaning of 28 U.S.C. § 1254(1)); 28 U.S.C. § 1254(1) (2000) (stating that the Supreme Court may hear cases from a court of appeals after granting a writ of certiorari "upon the petition of any party to any civil or criminal case").

42. *Hohn*, 524 U.S. at 241.

within the meaning of the *Lindh* rule."[43] Therefore, the Court decided that *Hohn* shed no light on whether a case was pending for purposes of applying the *Lindh* rule.[44]

IV. Application in Virginia

The holding of *Woodford* affects the small class of state prisoners who had not yet filed their applications for a writ of habeas corpus with a district court by AEDPA's effective date but had filed some of their habeas-related motions in a federal district court prior to April 24, 1996. Generally, commentators agree that AEDPA greatly reduces the chance that a state prisoner will find relief from the writ.[45] In particular, AEDPA allows a federal judge to issue a writ of habeas corpus only if the state court's decision was contrary to, or unreasonably applied, federal law as clearly established by the Supreme Court.[46] Before AEDPA, federal courts were free to grant a writ of habeas corpus if a state decision violated any applicable federal law.[47] AEDPA also imposed greater procedural burdens on federal habeas applicants and curtailed a federal court's ability to find facts contrary to a state court's findings.[48] If there are inmates who filed some motions prior to April 24, 1996, in anticipation of filing applications for a writ of habeas corpus, but who had not yet filed their applications, they will be forced to proceed under the more daunting post-AEDPA review of their habeas petitions.

Woodford also clarifies under what circumstances the Supreme Court will likely find that a federal habeas proceeding is "pending." By carefully distinguishing its holding in *McFarland*, the Court in *Woodford* strongly implied that *McFarland* retained its prior vitality.[49] Therefore, the state of the law after *Woodford* appears to be that a federal habeas case is pending when an applicant files an application for a writ of habeas corpus for purposes of applying the rule in *Lindh*, but a federal habeas proceeding is pending after an applicant merely moves for

---

43. *Woodford*, 123 S. Ct. at 1403.

44. *Id.*

45. *See* 17A CHARLES ALAN WRIGHT, ARTHUR R. MILLER & EDWARD H. COOPER, FEDERAL PRACTICE AND PROCEDURE § 4261.1, at 57 (2d ed. Supp. 2003) (stating that AEDPA restricts, but does not eliminate, habeas corpus).

46. 28 U.S.C. § 2254(d) (2000) (stating that a federal court may not grant a writ of habeas corpus unless the state court's decision "was contrary to, or involved an unreasonable application of, clearly established federal law, as determined by the Supreme Court of the United States").

47. WRIGHT, *supra* note 45, at 58–59.

48. Jeanne-Marie S. Raymond, *The Incredible Shrinking Writ:* Habeas Corpus *Under the Anti-Terrorism and Effective Death Penalty Act of 1996*, 9 CAP. DEF. J. 52, 53–55 (1996).

49. *See Woodford*, 123 S. Ct. at 1403 (emphasizing the differences between *Woodford* and *McFarland* as a reason why the holding in *McFarland* did not apply to *Woodford*).

appointment of counsel or a stay for the purposes of applying 28 U.S.C. § 2251 and 21 U.S.C. § 848(q)(4)(b).[50]

The principal distinction between *McFarland* and *Woodford* appears to be the fundamental right the Court sought to protect in the underlying claim. Whereas *McFarland* dealt with an important aspect of a habeas petitioner's constitutional right to counsel, *Woodford* only concerned an applicant's desire to avoid the stricter requirements of AEDPA.[51] While this is an important issue to the appellant, it has far less systemic importance than the Sixth Amendment right to counsel. The Court did not specifically address whether it would find a habeas proceeding was commenced by motions other than an application for a writ of habeas corpus to protect rights equally fundamental to the right to counsel. Nonetheless, the Court heavily emphasized the fundamental right at stake in *McFarland* and used that concern to distinguish *McFarland* from *Woodford*.[52] Therefore, the Court may find a federal habeas proceeding began with a filing other than the application for a writ of habeas corpus to protect a constitutional right equally fundamental to the right to assistance of counsel.

V. Conclusion

In *Woodford*, the Supreme Court indicated that a habeas claim may be considered pending at different times for different purposes. This makes predicting when the Court will find a habeas complaint legally pending difficult. Nonetheless, the net result of *Woodford* and *McFarland* appears to be that the Court will only find that a habeas case has commenced at a time other than the actual filing of the application for a writ of habeas corpus to protect a fundamental right.

Maxwell C. Smith

---

50. *Id.* at 1402–03; *McFarland*, 512 U.S. at 857.

51. *Woodford*, 123 S. Ct. at 1400; *McFarland*, 512 U.S. at 851.

52. *See Woodford*, 123 S. Ct. at 1402–03 (distinguishing *McFarland*); *McFarland*, 512 U.S. at 855–56 (emphasizing the importance of counsel in habeas proceedings). "An attorney's assistance prior to the filing of a capital defendant's habeas corpus petition is crucial, because '[t]he complexity of our jurisprudence in this area . . . makes it unlikely that capital defendants will be able to file successful petitions for . . . without the assistance of persons learned in the law.' " *McFarland*, 512 U.S. at 855–56 (quoting Murray v. Giarratano, 492 U.S. 1, 14 (1989) (Kennedy, J., concurring)).

CASE NOTES:

United States Court of Appeals for the Fourth Circuit