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## Capital Punishment: Summary of Supreme Court Decisions During the 1999-00 Term

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### Summary

With the exception of the Supreme Court's ruling in *Williams v. Taylor*,<sup>1</sup> the Court did not find any serious reversible error in the lower courts' opinions reviewed during the 1999-2000 term that relate to capital punishment. In *Ramdass v. Angelone*,<sup>2</sup> it was decided that a *habeas corpus* petitioner could not obtain relief from his death sentence on the ground that the state courts should have taken a less technical approach to determining whether he was entitled to have the penalty phase jury instructed that he would be ineligible for parole if the jury recommended a sentence of life imprisonment. The state courts reasoned that because judgment had not been entered on one of the petitioner's convictions, he did not have three "strikes" for purposes of the state's parole ineligibility law. The Supreme Court affirmed the decision on June 12, 2000, reasoning that the entry of a judgment of conviction upon a jury's guilty verdict in another case was not a forgone conclusion in view of the possibility of post-trial motions. In *Weeks v. Angelone*,<sup>3</sup> the Court affirmed the Fourth Circuit Court of Appeals denying the petitioner's appeal of a death penalty sentence and federal *habeas corpus* petition, deciding that the jury instructions were constitutionally adequate. In *Williams v. Taylor*,<sup>4</sup> it was generally recognized that a defendant is barred from proceeding with federal *habeas corpus* claims which were not developed in the state *habeas corpus* petition, however, the Court allowed an evidentiary hearing on two claims due to the petitioner's diligence in pursuing them.

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<sup>1</sup> 120 S. Ct. 1479 (2000).

<sup>2</sup> Slip Op. No. 99-7000 (U.S. June 12, 2000).

<sup>3</sup> 120 S. Ct. 727 (2000).

<sup>4</sup> 120 S. Ct. 1479 (2000).

## Decisions During the 1999-00 Term

The three capital punishment decisions which were decided during the 1999-00 Term involved issues concerning (1) the standard of review applicable in *habeas corpus* cases, (2) the adequacy of jury instructions, and (3) diligence in developing a claim in a state *habeas corpus* petition. With the Court's approval of a narrow view of the rules governing a capital defendant's right to have his penalty-phase jury informed of his parole ineligibility, there appear to be two distinct trends which the Court continues to follow: (1) it did not break any new ground insofar as capital punishment sentencing procedures are concerned and (2) instead of preeminence at the federal level, it gives considerable recognition to the traditional powers of the state to regulate crime.

***Ramdass v. Angelone.***<sup>5</sup> Following his release from prison for a 1988 robbery, Ramdass participated in a number of crimes, including the armed robbery of a Pizza Hut, the armed robbery of a Domino's restaurant, and the murder of Mohammed Kayani, a convenience store clerk.

Ramdass was found guilty in the Pizza Hut robbery on December 15, 1992, and a final judgment was entered by the trial court on January 22, 1993. A jury also found Ramdass guilty in the Domino's robbery on January 7, 1993.

Before judgment was entered in the Domino case, Ramdass was found guilty by a jury in the murder of Mohammed Kayani. On January 30, 1993, the jury recommended that the petitioner, Ramdass be sentenced to death. On February 18, 1993, Ramdass conviction in the Domino's robbery became final with the entry of the final judgment by the trial court.

During the subsequent hearing to decide if the jury's death sentence recommendation should be entered, Ramdass argued that the Pizza Hut and Domino's convictions made him ineligible for parole under Virginia's three strikes law and the jury should have been informed by the trial judge. During the jury deliberation, they (jury) asked the trial judge whether Ramdass would be eligible for parole if sentenced to life. Relying on the then-settled Virginia law that parole is not an appropriate factor for the jury to consider, the court informed the jury that they were not to be concerned with what may happen afterwards. The next day, the jury returned its verdict recommending the death sentence.

Rejecting Ramdass' argument, the trial court entered the death sentence recommendation. On direct appeal, the Virginia Supreme Court upheld the death sentence. Ramdass appealed to the U.S. Supreme Court.

In view of its decision in *Simmons v. South Carolina*,<sup>6</sup> in which the Court held that juries had to be informed of parole ineligibility, the Court granted Ramdass' petition for *certiorari* and remanded the case for reconsideration.

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<sup>5</sup> Slip Op. No. 99-7000 (U.S. June 12, 2000).

<sup>6</sup> 512 U.S. 154 (1994).

On remand, the Virginia Supreme Court affirmed Ramdass' death sentence, concluding that the murder conviction did not count as Ramdass' third conviction because final judgment had not been entered in the Domino's robbery case by the time of his sentencing hearing. Therefore, the 1988 robbery conviction did not apply as one of the strikes under the three strikes law. Ramdass appealed and the Supreme Court denied his petition for a writ of *certiorari*.

After an unsuccessful round of post conviction proceedings in the Virginia courts, Ramdass sought *habeas corpus* relief in federal court. He argued once more that the Virginia Supreme Court erred in not applying *Simmons*. The District Court granted relief.<sup>7</sup> The Court of Appeals reversed.<sup>8</sup> When Ramdass filed a third petition for a writ of *certiorari*, the Supreme Court stayed his execution<sup>9</sup> and granted *certiorari*.<sup>10</sup> Ramdass contends he was entitled to a jury instruction of parole ineligibility under the Virginia three-strikes law. Rejecting the contention, the Court, in an opinion written by Justice Kennedy and joined by Chief Justice Rehnquist and Justices Scalia and Thomas, affirmed Ramdass' death sentence.

The Court held that contrary to the petitioner's claim, the entry of the judgment of conviction in the petitioner's other case was not a forgone conclusion and represented more than a ministerial act.<sup>11</sup> The time between the receipt of a jury's guilty verdict and the entry of a judgment of guilty is the time for defendants to file post-trial motions to set aside the verdict, and such motions "are an essential part of Virginia criminal law practice."<sup>12</sup> At the time of the penalty phase proceedings in the instant case, the time for filing post-trial motions in the other case had not expired and the petitioner had not represented that he was not going to file such motions.<sup>13</sup> Therefore, because final judgment had not been entered in the Domino's robbery case when Ramdass was sentenced for Kayani's murder, he was not parole ineligible. The Court refused to extend *Simmons* to cover situations in which it appears that defendants will end up being parole ineligible, even if not ineligible at the moment of sentencing.<sup>14</sup>

Justice O'Connor's concurring opinion appears to take a broader view of *Simmons*. She stated that, unlike the situation under Virginia law in *Ramdass*, "[w]here all that stands between a defendant and a parole ineligibility under state law is a purely ministerial act, *Simmons* entitles the defendant to inform the jury of that ineligibility, either by

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<sup>7</sup> 28 F. Supp.2d 343 (E.D. Va. 1998).

<sup>8</sup> 187 F.3d at 407.

<sup>9</sup> 528 U.S. 1015 (1999).

<sup>10</sup> 528 U.S. 1068 (2000).

<sup>11</sup> Slip Op. at 16-17.

<sup>12</sup> *Id.* at 17.

<sup>13</sup> *Id.* at 18.

<sup>14</sup> *Id.* at 13.

argument or instruction, even if he is not technically ‘parole ineligible’ at the moment of sentencing.”<sup>15</sup>

Dissenting, Justice Stevens, joined by Justices Souter, Ginsburg, and Breyer, argued that it was not fair to allow the state to rely on the criminal acts in another case to demonstrate the petitioner’s future dangerousness while at the same time preventing the petitioner from relying on those same acts to demonstrate his ineligibility for parole.<sup>16</sup> The dissent also stated that the plurality mischaracterized the holding in *Simmons* and the plurality’s ruling will permit states to use legal technicalities in order to avoid the application of the constitutional due process principle in *Simmons*.<sup>17</sup>

***Weeks v. Angelone.*** The petitioner (Weeks), was charged with shooting and killing a state trooper. After his conviction, the jury entered into a 2-day penalty phase in which the prosecution put on evidence of aggravating circumstances and the defense presented mitigating evidence. After deliberating for four hours, the jury asked the judge whether they had to sentence Weeks to death if they found him guilty of only one of the aggravating circumstances. The judge referred the jury to their instructions, and the defense objected. After two more hours of deliberation, the jury sentenced Weeks to death.

The petitioner appealed to the Virginia Supreme Court for state *habeas corpus* relief. This court affirmed the sentence and conviction, and denied the *habeas* petition as untimely. The petitioner’s federal *habeas* was denied by the United States District Court. The Fourth Circuit also denied his appeal of the sentence and dismissed his federal *habeas* petition.

The Supreme Court, in a decision written by Chief Justice William Rehnquist and joined by Justices O’Connor, Scalia, Kennedy, and Thomas, affirmed the Fourth Circuit. The Court ruled that because the judge gave the same jury instructions regarding consideration of mitigating circumstances that the Court had previously upheld in *Buchanan v. Angelone*,<sup>18</sup> the jury was adequately instructed.<sup>19</sup>

Upon concluding that the jury instructions were adequate, the Supreme Court then considered whether the Constitution required anything more and concluded that it did not.<sup>20</sup> The Court noted that the jury’s failure to ask another question after receiving the judge’s response, the jury’s deliberation for two additional hours, and the jury’s affirmance in open court of the sentence indicated that at most a slight possibility existed that the jury had kept itself from considering mitigating evidence.<sup>21</sup>

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<sup>15</sup> *Id.* at 3 (Justice O’Connor concurring in judgment).

<sup>16</sup> *Id.* at 1 (Justice Stevens dissenting)

<sup>17</sup> *Id.* at 26-27.

<sup>18</sup> 522 U.S. 269 (1998).

<sup>19</sup> 120 S. Ct. at 731-32.

<sup>20</sup> 120 S. Ct. at 732-33.

<sup>21</sup> *Id.* at 733-34.

Deciding that the Virginia Supreme Court's affirmation of the petitioner's conviction and sentence was not contrary to nor an unreasonable application of Supreme Court decisions, the Court denied the federal *habeas* petition.<sup>22</sup>

Justice Stevens, with whom Justices Ginsburg, and Breyer joined and with whom Justice Souter joined in part, dissented, concluding that the text of the instructions, the judge's response to the jury's questions, the jury's verdict form, and the court reporter's notation in the transcription of the jury polling (a majority of the jury members were in tears) demonstrated that the jury did not want to sentence Weeks to the death penalty but felt that it was their duty under the law to do so.<sup>23</sup>

***Williams v. Taylor.*** In 1993, Williams and a friend, Jeffrey Cruse, robbed, kidnaped and murdered Morris Keller, Jr. and his wife, Mary Elizabeth. They also raped Mary Elizabeth during the robbery.

Cruse testified against Williams and Williams was sentenced to death. After his conviction and sentence were upheld by the Virginia Supreme Court, Williams petitioned for state *habeas corpus* relief, alleging that the state had improperly failed to inform him of a plea agreement it had with Cruse.

The Virginia Supreme Court dismissed Williams' state *habeas corpus* petition and Williams subsequently filed a federal *habeas corpus* petition alleging the plea agreement claim as well as three new claims. The district court agreed to hold an evidentiary hearing on two of Williams new claims.

However, after the Fourth Circuit Court of Appeals directed the district court to apply the Antiterrorism and Effective Death Penalty Act (AEDPA), which except for a few, narrow exceptions, barred the presentation of claims in federal *habeas corpus* petition that were not developed in a state petition, the district court revoked its decision and dismissed Williams petition.

The Fourth Circuit upheld the district court's order and Williams appealed.

The Supreme Court, in a unanimous opinion written by Justice Kennedy, affirmed in part and reversed in part the decision of the district court and the Fourth Circuit. The Court agreeing that, under the AEDPA, a defendant may bring new claims in his federal *habeas corpus* petition that were not developed in his state petition as long as the defendant is diligent in pursuing the claims, reversed the Fourth Circuit's determination that Williams had failed to show the necessary diligence in two of the new claims.<sup>24</sup>

The Court noted that Williams had failed to prove that he exercised diligence in order to preserve his first claim in his federal *habeas corpus* petition, that the state's failure to

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<sup>22</sup> *Id.* at 734.

<sup>23</sup> *Id.* at 739-40.

<sup>24</sup> 120 S. Ct. at 1491.

disclose Cruse's psychiatric report violated *Brady v. Maryland*.<sup>25</sup> The Court in noting that Williams' state *habeas corpus* counsel had possession of a transcript that referred to the report, decided that Williams attorney was put on notice of the existence of the psychiatric report.<sup>26</sup>

The Court then determined that Williams had shown that he was diligent in attempting to develop the facts regarding his second and third new claims, revealing that a juror was biased and that the prosecutor knew and concealed the bias.<sup>27</sup> Concluding that a juror failed to state that she had been married to one of the state's witnesses who was the deputy sheriff, that the state prosecutor represented her in the divorce, that the prosecutor did not disclose this information and the petitioner tried unsuccessfully to investigate the jury, the Court held that no facts had existed which would have put Williams on notice regarding possible bias and prosecutorial misconduct.<sup>28</sup> Therefore, the Court remanded the case for an evidentiary hearing on Williams' juror bias and prosecutorial misconduct claims.<sup>29</sup>

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<sup>25</sup> 373 U.S. 83 (1963).

<sup>26</sup> 120 S. Ct. at 1492.

<sup>27</sup> *Id.* at 1492-93.

<sup>28</sup> *Id.* at 1492.

<sup>29</sup> *Id.* at 1494.

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