

Opinion of REHNQUIST, C. J.

SUPREME COURT OF THE UNITED STATES

No. 98–8384

TERRY WILLIAMS, PETITIONER v. JOHN TAYLOR,
WARDEN

ON WRIT OF CERTIORARI TO THE UNITED STATES COURT OF
APPEALS FOR THE FOURTH CIRCUIT

[April 18, 2000]

CHIEF JUSTICE REHNQUIST, with whom JUSTICE SCALIA and JUSTICE THOMAS join, concurring in part and dissenting in part.

I agree with the Court’s interpretation of 28 U. S. C. §2254(d)(1) (1994 ed., Supp. III), see *ante*, at 4–15 (opinion of O’CONNOR, J.), but disagree with its decision to grant habeas relief in this case.

There is “clearly established Federal law, as determined by [this Court]” that governs petitioner’s claim of ineffective assistance of counsel: *Strickland v. Washington*, 466 U. S. 668 (1984). Thus, we must determine whether the Virginia Supreme Court’s adjudication was “contrary to” or an “unreasonable application of” *Strickland*.

Generally, in an ineffective-assistance-of-counsel case where the state court applies *Strickland*, federal habeas courts can proceed directly to “unreasonable application” review. But, according to the substance of petitioner’s argument, this could be one of the rare cases where a state court applied the wrong Supreme Court precedent, and, consequently, reached an incorrect result. Petitioner argues, and the Court agrees, that the Virginia Supreme Court improperly held that *Lockhart v. Fretwell*, 506 U. S. 364 (1993), “modified or in some way supplanted” the rule set down in *Strickland*. See *ante*, at 27. I agree that such a holding would be improper. But the Virginia Supreme

Opinion of REHNQUIST, C. J.

Court did not so hold as it did not rely on *Lockhart* to reach its decision.

Before delving into the evidence presented at the sentencing proceeding, the Virginia Supreme Court stated:

“We shall demonstrate that the criminal proceeding sentencing defendant to death was not fundamentally unfair or unreliable, and that the prisoner’s assertions about the potential effects of the omitted proof do not establish a ‘reasonable probability’ that the result of the proceeding would have been different, nor any probability sufficient to undermine confidence in the outcome. Therefore, any ineffective assistance of counsel did not result in actual prejudice to the accused.” *Williams v. Warden*, 254 Va. 16, 25, 487 S. E. 2d 194, 199 (1997).

While the first part of this statement refers to *Lockhart*, the rest of the statement is straight out of *Strickland*. Indeed, after the initial allusion to *Lockhart*, the Virginia Supreme Court’s analysis explicitly proceeds under *Strickland* alone.* See 254 Va., at 26–27, 487 S. E. 2d, at 200.

— — — — —

*In analyzing the evidence that was presented to the sentencing jury, the Virginia Supreme Court stated: “Drawing on *Strickland*, we hold that, even assuming the challenged conduct of counsel was unreasonable, the prisoner suffered insufficient prejudice to warrant setting aside his death sentence,” 254 Va., at 26, 487 S. E. 2d, at 200 (quoting *Strickland v. Washington*, 466 U. S. 668, 698–699 (1984)); “[w]hat the Supreme Court said in *Strickland* applies with full force here: Given the overwhelming aggravating factors, there is no reasonable probability that the omitted evidence would have changed the conclusion that the aggravating circumstances outweighed the mitigating circumstances and, hence, the sentence imposed;” 254 Va., at 26, 487 S. E. 2d, at 200 (quoting *Strickland, supra*, at 700); and “[i]n conclusion, employing the language of *Strickland*, the prisoner has made no showing that the justice of his sentence was rendered unreliable by a breakdown in the adversary process caused by deficiencies in counsel’s assistance. [The prisoner’s] sentencing proceeding was not fundamentally unfair,”

Opinion of REHNQUIST, C. J.

Because the Virginia Supreme Court did not rely on *Lockhart* to make its decision, and, instead, appropriately relied on *Strickland*, that court's adjudication was not "contrary to" this Court's clearly established precedent.

The question then becomes whether the Virginia Supreme Court's adjudication resulted from an "unreasonable application of" *Strickland*. In my view, it did not.

I, like the Virginia Supreme Court and the Federal Court of Appeals below, will assume without deciding that counsel's performance fell below an objective standard of reasonableness. As to the prejudice inquiry, I agree with the Court of Appeals that evidence showing that petitioner presented a future danger to society was overwhelming. As that court stated:

"The murder of Mr. Stone was just one act in a crime spree that lasted most of Williams's life. Indeed, the jury heard evidence that, in the months following the murder of Mr. Stone, Williams savagely beat an elderly woman, stole two cars, set fire to a home, stabbed a man during a robbery, set fire to the city jail, and confessed to having strong urges to choke other inmates and to break a fellow prisoner's jaw." 163 F. 3d 860, 868 (CA4 1998).

In *Strickland, supra*, we said that both the performance and prejudice components of the ineffectiveness inquiry are mixed questions of law and fact. 466 U. S., at 698. It is with this kind of a question that the "unreasonable application of" clause takes on meaning. While the determination of "prejudice" in the legal sense may be a question of law, the subsidiary inquiries are heavily factbound.

Here, there was strong evidence that petitioner would continue to be a danger to society, both in and out of

— — — — —

254 Va., at 27, 487 S. E. 2d, at 200 (quoting *Strickland, supra*, at 700).

Opinion of REHNQUIST, C. J.

prison. It was not, therefore, unreasonable for the Virginia Supreme Court to decide that a jury would not have been swayed by evidence demonstrating that petitioner had a terrible childhood and a low IQ. See *ante*, at 31. The potential mitigating evidence that may have countered the finding that petitioner was a future danger was testimony that petitioner was not dangerous while in detention. See *ibid*. But, again, it is not unreasonable to assume that the jury would have viewed this mitigation as unconvincing upon hearing that petitioner set fire to his cell while awaiting trial for the murder at hand and has repeated visions of harming other inmates.

Accordingly, I would hold that habeas relief is barred by 28 U. S. C. §2254(d) (1994 ed., Supp. III).