

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

CHARLES LAWSON : CIVIL ACTION  
 :  
v. :  
 :  
DONALD T. VAUGHN, et al. : No. 00-2746

**MEMORANDUM AND ORDER**

**J. M. KELLY, J. MARCH , 2001**

Presently before the Court are Objections to the Report and Recommendation of Magistrate Judge Diane M. Welsh filed by the Petitioner, Charles Lawson ("Lawson"). Lawson is currently serving a life sentence for third degree murder. Following his conviction in state court, Lawson filed a state court petition for post-trial relief, arguing that his counsel's assistance had been ineffective. Two different state courts disagreed and upheld his conviction. Lawson then filed a federal Petition for Writ of Habeas Corpus. Magistrate Judge Welsh, in the Report and Recommendation to which Lawson now objects, suggested that the state courts had properly analyzed Lawson's case. For the following reasons, Lawson's Objection is denied and the Court approves and adopts Magistrate Judge Welsh's Report and Recommendation.

**I. BACKGROUND**

On December 29, 1990, Lawson was playing cards with four friends inside a Philadelphia apartment, a reputed drug house. Donte Beachum entered the apartment, which was owned by one of his relatives, and demanded that everyone leave. A heated argument ensued, during which Lawson and Beachum threatened to kill each other.<sup>1</sup> Later that night, Beachum returned to the apartment with a friend, Christian Matinog. Lawson claims that Beachum was armed. A few minutes later, Lawson forced the apartment door open and fired several gunshots inside, killing Matinog. Beachum survived.

The Commonwealth of Pennsylvania charged Lawson with murder. His case proceeded to a bench trial before Judge Joseph D. O'Keefe. Lawson testified that he had acted in self-defense because Beachum had returned to the apartment armed with a gun. One eyewitness corroborated Lawson's version of the events. Four other witnesses, testified otherwise, stating that Lawson had been the aggressor and could have retreated. They also testified that Beachum either did not have, or was not seen with, a gun before Lawson shot him.

The credibility of the witnesses in the case was therefore central to Lawson's defense. Three of the inculpatory witnesses testifying against him, John Montenegro, Vera Adams and Diane

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<sup>1</sup> Lawson argued at trial that he never made any threats.

Beachum, had crimen falsi convictions,<sup>2</sup> pending criminal cases, active probations, outstanding bench warrants and used several aliases. Lawson's attorney, however, elected not to introduce this impeachment evidence against them. On October 26, 1992, Lawson was convicted of third degree murder, possession of an instrument of crime, aggravated assault and reckless endangerment. Because of a prior conviction for third degree murder, Lawson was sentenced to a mandatory term of life imprisonment. Lawson appealed his conviction and the Pennsylvania Superior Court affirmed the lower court's judgment.

Lawson obtained new counsel. On August 19, 1996, Lawson filed a petition for post-conviction relief, arguing that his prior counsel's failure to introduce the impeachment evidence constituted ineffective assistance of counsel. Judge O'Keefe conducted an evidentiary hearing, during which Lawson's original trial counsel offered his reasons for not introducing the impeachment evidence. Specifically, the attorney stated that, based on his familiarity with Judge O'Keefe, who was presiding over the bench trial, such evidence would be of little or no help to his case. He also stated that he had obtained favorable testimony from each witness, and did not want to unduly impeach them. Rather, he wanted to focus the court's attention on whether Beachum returned to the apartment with a gun. With

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<sup>2</sup> See, e.g., Pa. R. Evid. 609(a).

regard to Ms. Adams, the attorney stated that he considered it unnecessary to impeach her with her criminal history because he found her testimony inherently incredible; apparently, Ms. Adams testified she was under the influence of drugs and alcohol at the time of the shooting. With regard to Mr. Montenegro, whom the attorney did cross-examine with evidence of some convictions, the attorney stated that completely discrediting the witness would have been detrimental to his client because Mr. Montenegro had provided some favorable testimony for his case. On November 17, 1997, Judge O'Keefe dismissed the petition. The Superior Court affirmed this decision as well.

On May 30, 2000, Lawson filed for a Petition for Writ of Habeas Corpus under 28 U.S.C. § 2254, raising his alleged ineffective assistance of counsel. Magistrate Judge Welsh, to whom the case was referred, concluded that the state courts had reasonably applied federal law and, accordingly, filed a Report and Recommendation suggesting that this Court deny Lawson's Petition. Lawson filed the instant Objections to that Report and Recommendation, which the Court will now consider.

## **II. STANDARD OF REVIEW**

Federal Rule of Civil Procedure 72 governs the review of objections to magistrate judges' orders. Pursuant to that Rule, a district court reviewing a habeas corpus petitioner's

objections to a magistrate judge's report and recommendation must "make a de novo determination . . . of any portion of the magistrate judge's disposition to which specific written objection has been made. . . ." Fed. R. Civ. P. 72(b). Although the Court must therefore make a de novo review of the Magistrate Judge's Report and Recommendation and Lawson's Petition for Writ of Habeas Corpus, the Court's review of the state court proceedings is not as broad; the applicable federal statute in this case limits the scope of the Court's review of the state court's determinations. See Antiterrorism and Effective Death Penalty Act of 1996 ("AEDPA"), 28 U.S.C. § 2254(d)(1) (1996). Under the AEDPA,

An application for a writ of habeas corpus . . . 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 . . . 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.

Id. A federal law is unreasonably applied only when the state court's determination is objectively unreasonable when applied to the case at bar; an incorrect or erroneous application does not necessarily render a court's actions unreasonable. Williams v. Taylor, 529 U.S. 362, 411 (2000). The plain language of the AEDPA also requires that the factual findings of state courts enjoy a strong presumption of correctness. See 28 U.S.C. § 2254(e)(1) ("[A] determination of a factual issue made by a State

court shall be presumed to be correct. The applicant shall have the burden of rebutting the presumption of correctness by clear and convincing evidence."); see also Dickerson v. Vaughn, 90 F.3d 87, 90 (3d Cir. 1996). A court's finding that counsel rendered effective assistance is not purely a finding of fact, however, but rather is a mixed question of law and fact. Strickland v. Washington, 466 U.S. 668 (1984). Nevertheless, "[t]he AEDPA increases the deference federal courts must give to the factual findings and legal determinations of the state courts." Werts v. Vaughn, 228 F.3d 178, 196 (3d Cir. 2000) (emphasis added).

### III. DISCUSSION

A district court may entertain a state prisoner's application for a writ of habeas corpus "only on the ground that he is in custody in violation of the Constitution. . . ." 28 U.S.C. § 2254(a). The Sixth Amendment to the United States Constitution guarantees certain criminal defendants the right to the assistance of legal counsel. U.S. Const. amend. VI. Corollary to that right is the right to effective assistance of counsel; without effective counsel, the right to counsel becomes meaningless. Because Lawson's Petition asserts he received ineffective assistance of counsel, it is properly before the Court.

Lawson finds essentially two sources of error in the Report

and Recommendation of Magistrate Judge Welsh, each of which the Court must specifically address. First, Lawson suggests that the Report and Recommendation applied an incorrect standard of review by: (1) being overly deferential to the state courts' decisions; and (2) improperly relying on determinations made by the state appellate court that were not originally made by Judge O'Keefe. Second, Lawson argues that the Report and Recommendation erred with regards to the merits of Lawson's Petition because the state court decisions unreasonably applied the relevant federal law controlling ineffective assistance of counsel claims. The Court will address each argument in turn.

A. The Standard of Review for Habeas Corpus Petitions

First, Lawson suggests that the Report and Recommendation is overly deferential to the findings of the state courts in this case. The Court disagrees. As explained above, the AEDPA requires a certain amount of deference to state court determinations, even though, as Lawson correctly notes, the word "deference" does not appear in the statute at all.<sup>3</sup> Not only are

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<sup>3</sup> Perhaps Lawson has confused the standard of review mandated by the AEDPA and the case law governing ineffective assistance of counsel claims; while the former does not per se require deference to the findings of state courts, the latter clearly requires deference to an attorney's ad hoc tactical decisions made during trial. See Strickland, 466 U.S. at 689 ("Judicial scrutiny of counsel's performance must be highly deferential.").

a state court's factual findings presumptively correct, but the state court's legal conclusions will not support a habeas corpus petition unless they are contrary to or unreasonably apply clearly established federal law. See id. § 2254. The Report and Recommendation was not overly deferential to the state courts.

Second, Lawson suggests that the Magistrate Judge improperly relied on factual findings and credibility determinations made by the state appellate court which were not made by Judge O'Keefe. Section 2254 of the AEDPA, however, makes no distinction between the factual determinations of state trial and appellate courts. Dickerson, 90 F.3d at 90. Furthermore, in the event of conflicting factual findings by state trial and appellate courts, a federal court must accept the version reached by the higher court. Id. Lawson's contention that state appellate courts are not permitted to make independent factual determinations, or that a magistrate judge may not then rely on those determinations, is therefore unfounded. Thus, the Report and Recommendation accurately states the standard of review for this case.

B. Whether the State Courts Unreasonably Applied Federal Law

Lawson's Petition for Writ of Habeas Corpus argues that he was denied the effective assistance of counsel, and that the state court decisions finding otherwise unreasonably applied clearly established federal law. In this case, the "clearly

established Federal law" is the United States Supreme Court case of Strickland v. Washington, 466 U.S. 668 (1984), which established the applicable test for ineffective assistance of counsel claims. Under Strickland, habeas corpus petitioners must show that their attorney's assistance: (1) was ineffective, meaning that it was objectively unreasonable in light of the totality of the circumstances at the time when the decision was made; and (2) was prejudicial to the defendant, meaning that there is a reasonable probability that the outcome, without the ineffective assistance, would have been different. See id. at 687-96. The burden of proving that an attorney rendered objectively unreasonable assistance rests with the petitioner, and it is a high hurdle to overcome. Judicial scrutiny of counsel's performance is highly deferential, and there exists a strong presumption that a defense attorney's conduct fell within the wide range of reasonable professional assistance, and was merely sound trial strategy. See id. at 689.

Lawson asserts that the state courts unreasonably applied federal law by failing to consider all of the facts that were relevant under the Strickland test. Had the state courts considered all of the relevant facts, suggests Lawson, they could not possibly have concluded that Lawson's trial attorney rendered effective assistance of counsel. The evidence, however, suggests otherwise. A state court unreasonably applies a federal law

under the AEDPA only when the court's determination is objectively unreasonable when applied to the case at bar; an incorrect or erroneous application does not necessarily render a court's actions unreasonable. Williams, 529 U.S. at 411. For example, Lawson notes that his trial attorney claimed to decide not to impeach the three witnesses against him with their criminal histories; his attorney did, however, impeach those witnesses with other evidence and, in the case of one, certain aspects of the witness's criminal record. Lawson concludes that his attorney's explanation for his trial strategies does not dovetail with his actions at the trial itself, and suggests that the state courts' failure to consider this evidence renders their decisions regarding the effectiveness of his trial attorney's action unreasonable. The Court disagrees. Although the state courts did not mention this specific evidence in their opinions, it cannot be said that they did not consider it. Rather, it seems that the state courts, and the Report and Recommendation as well, considered all of the relevant evidence but reached a conclusion contrary to Lawson's. Indeed, the AEDPA does not establish a requirement that state courts examining an issue address each piece of evidence in their written denials of a petition for post-trial relief.

The Court finds that the state courts did not unreasonably apply Strickland in the instant case. During the hearing held on

this matter, Lawson's trial attorney stated that his decisions were based, in part, on his familiarity with the trial judge. He also intended to focus his and the court's attention on whether Beachum returned to the apartment with a gun. With regard to Ms. Adams, the attorney stated that he considered it unnecessary to impeach her with her criminal history because he found her testimony inherently incredible no matter what; apparently, Ms. Adams testified she was under the influence of drugs and alcohol at the time of the shooting. The attorney also stated that to totally discredit Mr. Montenegro, whom the attorney did impeach with evidence of some convictions, would have hurt his case because Mr. Montenegro had provided some favorable testimony for his case. The state appellate court implicitly accepted that these strategic decisions were, in fact, the true motivations behind the attorney's decisions. That factual finding, under the AEDPA, is presumptively correct. Lawson has failed to rebut that presumption with clear and convincing evidence to the contrary.<sup>4</sup>

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<sup>4</sup> Some evidence does, however, tend to show that trial counsel's decisions were merely unwise rather than well-reasoned decisions. For example, trial counsel's assertion that he wanted to focus the court's attention on the issue of whether Beachum was armed does not entirely make sense; because two witnesses testified that he was armed, the credibility of the four witnesses claiming he was unarmed certainly was relevant. Nevertheless, the state courts' implicit findings of fact are presumptively correct, and Lawson has failed to prove either clearly or convincingly that they are wrong. The Court therefore accepts for the purposes of this motion that trial counsel's decisions were indeed trial strategies rather than mere oversights.

Accordingly, the question becomes whether the trial attorney's trial strategies constituted ineffective assistance of counsel. The Court finds that they did not. Lawson's defense attorney's trial strategies are entitled to great deference. Strickland, 466 U.S. at 689. Moreover, "the idiosyncracies of the particular decisionmaker," which Lawson's trial attorney considered as part of his trial tactics, are proper considerations when determining the reasonableness of tactical decisions. Strickland, 466 U.S. at 695. The state courts properly refused to view the trial attorney's decisions in hindsight, which is always clearer than foresight. Even if the Court disagreed with the state court's rulings, which it does not, the Court cannot say that they were objectively unreasonable applications of Strickland. Accordingly, Lawson's Petition for Writ of Habeas Corpus is denied.

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**O R D E R**

**AND NOW**, this                    day of March, 2001, in consideration of the Petition for Writ of Habeas Corpus filed by the Petitioner, Charles Lawson (Doc. No. 1), the Answer filed by the Defendants, the Report and Recommendation of Magistrate Judge Diane M. Welsh, the Petitioner's Objection and the Reply thereto filed by the Defendants, it is **ORDERED** that:

1. The Report and Recommendation is **APPROVED** and **ADOPTED**.
2. The Petition for Writ of Habeas Corpus, filed pursuant to 28 U.S.C. § 2254, is **DISMISSED**.
3. There is no basis for the issuance of a certificate of appealability.

BY THE COURT:

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JAMES MCGIRR KELLY, J.