

## Ineffective Assistance of Counsel

[Maryland v. Kulbicki](#), 577 U.S. \_\_\_\_ (Oct. 5, 2015). The Court reversed the state decision below which had held that the defendant's lawyers were ineffective under *Strickland*. At the defendant's 1995 murder trial, the State offered FBI Agent Peele as an expert witness on Comparative Bullet Lead Analysis (CBLA). Peele's testimony linked a bullet fragment removed from the victim's brain to the defendant's gun. In 2006, the defendant asserted a post-conviction claim that his defense attorneys were ineffective for failing to question the legitimacy of CBLA. At this point—eleven years after his conviction—CBLA had fallen out of favor. In fact, in 2006, the Court of Appeals of Maryland held that CBLA evidence was not generally accepted by the scientific community and was therefore inadmissible. Although the defendant's post-conviction claim failed in the trial court, he appealed and the Maryland appellate court reversed. According to the Maryland court, defendant's lawyers were deficient because they failed to unearth a report co-authored by Peele in 1991 and containing a single finding which could have been used to undermine the CBLA analysis. The Supreme Court reversed, noting at the time of the defendant's trial "the validity of CBLA was widely accepted, and courts regularly admitted CBLA evidence." And in fact, the 1991 report at issue "did not question the validity of CBLA, concluding that it was a valid and useful forensic tool to match suspect to victim." The Court held: "Counsel did not perform deficiently by dedicating their time and focus to elements of the defense that did not involve poking methodological holes in a then-uncontroversial mode of ballistics analysis." Furthermore the Court noted, it is unclear that counsel would have been able to uncover the report, if a diligent search was made.