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Fourth Circuit Court of Appeals

(Note: You may access the court's opinion by clicking on the case name)

Court Holds That Virginia Supreme Court's Application of *Strickland v. Washington* Standard Was Not Unreasonable Under 28 U.S.C. § 2254(d) (Deferential Standard of Review of State Court Judgment on Federal Habeas) Because *Strickland* Prejudice Was Not Established

[Jones v. Clarke](#), ___ F.3d ___, 2015 WL 1812952 (4th Cir. April 22, 2015). Federal habeas petitioner Jones was convicted in a non-jury trial in a Virginia state court of grand larceny and breaking and entering that involved his breaking into a home and taking a television. The state's evidence consisted of testimony by the victim and the investigating officer, through whom fingerprint evidence was admitted by a fingerprint analysis certificate without live testimony of the fingerprint analyst. Defense counsel failed to object to the admission of the certificate on Confrontation Clause grounds. Based on the trial judge's comments, there were five main facts bearing on guilt: (1) the victim's house window was broken; (2) the television was stolen from the house; (3) the defendant (federal habeas petitioner) visited the house a few weeks before the theft by entering the front door and remaining in the family room; (4) the defendant's fingerprint was lifted from the broken window area; and (5) the defendant stated, in response to the victim's question to the defendant at a jail about why he committed the crime, that he "made a mistake or whatever and that's what happened." The Virginia appellate courts denied the defendant's direct appeal, and the Virginia Supreme Court denied his state habeas petition based on ineffective assistance of counsel under *Strickland v. Washington*, 466 U.S. 668 (1984). The defendant filed a federal habeas corpus petition on the same ground, and the federal district court granted the petition. The fourth circuit reversed. It stated that while it is conceivable that the trial judge might have acquitted the defendant without the fingerprint evidence, it did not believe there was a "substantial" likelihood that the judge would have done so. More importantly, under these circumstances and in light of the deferential federal habeas standard of review, it cannot find that the state supreme court unreasonably concluded the defendant failed to establish *Strickland* prejudice to require that the petitioner's convictions must be reversed.