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March 20, 2015

Fourth Circuit Court of Appeals

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

Court Holds That Federal Habeas Corpus Petitioner's State Trial Defense Counsel Was Ineffective in Failing to Request Jury Instruction Defining Heat of Passion For Voluntary Manslaughter Charge

[Lee v. Clarke](#), ___ F.3d ___, 2015 WL 1275344 (March 20, 2015). Lee was tried in a Virginia state court for first-degree murder and the lesser offenses of second-degree murder and voluntary manslaughter, and he was convicted of second-degree murder. The conviction was affirmed on direct appeal. He then filed a state habeas petition alleging his defense counsel was ineffective because he failed to request a jury instruction defining heat of passion. The state court denied the petition. Lee then filed a federal habeas corpus petition alleging the same issue. The federal district court dismissed the petition. The fourth circuit reversed. It held that the state habeas court's ruling was based on an unreasonable application of clearly established federal law for ineffective assistance of counsel under *Strickland v. Washington*, 466 U.S. 668 (1984), because the court failed to appreciate the prejudice inherent in the absence of a jury instruction defining heat of passion—given that the undisputed facts demonstrate that the instruction was crucial to negating the element of malice in murder. And defense counsel had no strategic reason for failing to request the instruction.