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Fourth Circuit Court of Appeals

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

Court Rules That Federal Habeas Petitioner Who Claimed His Lawyer Was Ineffective Was Not Prejudiced When Lawyer at Petitioner's State Trial Failed to Request Jury Instruction on Alibi

[Hope v. Cartledge](#), ___ F.3d ___, 2017 WL 2221108 (4th Cir. May 22, 2017). Hope was convicted in a South Carolina state court of armed robbery and related charges. His sole defense was based on alibi testimony, and South Carolina law required that an alibi charge be given in his trial. However, Hope's defense lawyer failed to request an alibi instruction, and the court did not give one *sua sponte*. Hope later filed an application for post-conviction relief in a South Carolina state court asserting a claim of ineffective assistance of counsel under *Strickland v. Washington*, 466 U.S. 668 (1984), because his lawyer failed to request the alibi instruction. The state court ruled against Hope's claim, finding no prejudice to Hope as a result of counsel's failure to request the instruction.

Hope brought a federal habeas petition in South Carolina federal district court alleging the ineffective assistance of counsel claim. The district court denied the petition, and the fourth circuit affirmed the district court's ruling. The court noted that the question on federal habeas was whether the state court's application of the *Strickland* standard was unreasonable. The court examined the trial proceedings. First, the trial court instructed the jury at least 15 times that the State must prove Hope guilty beyond a reasonable doubt, which necessarily included Hope's presence during the robbery. Second, it noted that the crucial issue at trial was witness credibility, and the parties presented the jury with two different and irreconcilable factual scenarios. The court said that the guilty verdict necessarily established that the jury found the State's witnesses to be credible and believed the State's version of events. The court did not believe the inclusion of the alibi instruction would have changed the jury's credibility determination or the ultimate verdict. The court concluded that Hope had failed to meet his high burden of establishing that the South Carolina post-conviction court unreasonably applied the *Strickland* standard or unreasonably concluded that Hope failed to establish *Strickland* prejudice.