1993-94 U.S. SUPREME COURT TERM: CASES AFFECTING CRIMINAL LAW & PROCEDURE

Robert L. Farb
Institute of Government

Reasonable Doubt Instructions Were Constitutional

Victor v. Nebraska, 114 S.Ct. 1239, 127 L.Ed.2d. 583, 54 Crim. L. Rep. 2225 (22 March 1994). The Court, distinguishing Cage v. Louisiana, 498 U.S. 39 (1990), upheld the constitutionally of reasonable doubt instructions in a case from California and a case from Nebraska. The California instruction stated:

> A defendant in a criminal action is presumed to be innocent until the contrary is proved, and in case of a reasonable doubt whether his guilt is satisfactorily shown, he is entitled to a verdict of not guilty. This presumption places upon the State the burden of proving him guilty beyond a reasonable doubt.
> Reasonable doubt is defined as follows: It is not a mere possible doubt; because everything relating to human affairs, and depending on moral evidence, is open to some possible or imaginary doubt. It is that state of the case which, after the entire comparison and consideration of all the evidence, leaves the minds of the jurors in that condition that they cannot say they feel an abiding conviction, to a moral certainty, of the truth of the charge.

The Nebraska instruction stated:

> Reasonable doubt is such a doubt as would cause a reasonable and prudent person, in one of the graver and more important transactions of life, to pause and hesitate before taking the represented facts as true and relying and acting thereon. It is such a doubt as will not permit you, after full, fair, and impartial consideration of all the evidence, to have an abiding conviction, to a moral certainty, of the guilt of the accused. At the same time, absolute or mathematical certainty is not required. You may be convinced of the truth of a fact beyond a reasonable doubt and yet be fully aware that possibly you may be mistaken. You may find an accused guilty upon the strong probabilities of the case, provided such probabilities are strong enough to exclude any doubt of his guilt that is reasonable. A reasonable doubt is an actual and substantial doubt arising from the evidence, from the facts or circumstances shown by the evidence, or from the lack of evidence on the part of the state, as distinguished from a doubt arising from mere possibility, from bare imagination, or from fanciful conjecture.

[Although the court upheld these instructions, it made clear that it did not condone the use of the phrase "moral certainty," and that it may find in a future case that the use of that phrase violates the due process clause. Therefore, judges should consider not using the phrase in their instructions on reasonable doubt.]

[The Court has granted the state's petitions for certiorari in State v. Bryant, 334 N.C. 333, 432 S.E.2d 291 (1993) and State v. Williams, 334 N.C. 440, 434 S.E.2d 588 (1993) (in both cases, the court ruled that the reasonable doubt instructions violated the ruling in *Cage v. Louisiana*), vacated the judgments in those cases, and remanded them to the North Carolina Supreme Court for further consideration in light of the ruling in *Victor v. Nebraska*. The North Carolina Supreme Court later ruled in State v. Bryant, 337 N.C. 298, 446 S.E.2d 71 (1994) the reasonable doubt instruction was constitutional.]

Miranda Issues

If Defendant During Custodial Interrogation, After Proper *Miranda* Warnings And Waiver, Makes An Ambiguous Or Equivocal Reference To Counsel, Officers Are Not Required To Stop Interrogation To Clarify Defendant's Reference

Davis v. United States, 114 S.Ct. 2350, 129 L.Ed.2d. 362, 55 Crim. L. Rep. 2206 (24 June 1994). Investigators gave the in-custody defendant *Miranda* warnings and received a proper waiver of his rights. About an hour and a half into the interrogation, the defendant said, "Maybe I should talk to a lawyer." The investigators told the defendant that they did not want to violate his rights, that if he wanted a lawyer then they would stop questioning him, and they would not pursue the matter unless it was clarified whether he was asking for a lawyer or was just making a comment about a lawyer. The defendant said, "No, I'm not asking for a lawyer," and continued on, and said, "No, I don't want a lawyer." After a short break, the investigators reminded the defendant of his rights to remain silent and to counsel. The defendant then made incriminating statements that he later sought to suppress at trial, arguing that the investigators violated the ruling in Edwards v. Arizona, 451 U.S. 477 (1981) (officers must immediately stop interrogation if the suspect has clearly asserted the right to counsel).

The Court reviewed its prior rulings and stated that the determination whether a defendant actually invoked the right to counsel is an objective one. That is, the invocation of the right to counsel requires some statement that can reasonably be construed to be an expression of the desire for the assistance of counsel. The Court ruled that if a defendant makes a reference to an attorney that is ambiguous or equivocal so a reasonable officer under the circumstances would have understood only that the defendant *might* be invoking the right to counsel, the officer is not required to stop the interrogation—rather, the defendant must unambiguously request counsel. The Court specifically rejected a requirement that an officer must stop interrogation immediately when a defendant makes an ambiguous or equivocal request for counsel. [Note: the Court's ruling appears to apply only when a defendant makes an ambiguous or equivocal request for counsel during custodial interrogation *after* proper *Miranda* warnings have been given and a waiver of rights has been obtained. If a defendant makes an ambiguous or equivocal request for counsel when the officer is giving *Miranda* warnings or obtaining a waiver of rights, the officer should clarify whether or not the defendant wants a lawyer since the state has the burden of proving that the defendant waived his or her rights, including the right to counsel.]

The Court noted that when a defendant makes an ambiguous or equivocal request for counsel, it often will be good law enforcement practice for officers to clarify whether or not the defendant wants a lawyer. Clarifying questions protect the rights of the defendant by ensuring that the defendant gets a lawyer if he or she wants one and will minimize the risk of a confession being suppressed by later judicial second-guessing of the meaning of the defendant's statement about

counsel. But the Court reiterated that if the defendant's statement is not an unambiguous or unequivocal request for counsel, officers are not obligated to stop questioning the defendant.

The Court upheld the lower court ruling that the defendant's remark to the officers in this case, "Maybe I should talk to a lawyer," was not a request for counsel. Therefore, the officers were not required to stop questioning the defendant.

Court Reaffirms Prior Rulings That Officer's Undisclosed Subjective View Is Irrelevant In Determining Custody Under *Miranda*; Court Again Rejects "Focus-Of-Investigation" Factor

Stansbury v. California, 114 S.Ct. 1526, 128 L.Ed.2d. 293, 55 Crim. L. Rep. 2016 (26 April 1994). In determining whether a suspect was in custody so that an officer must give *Miranda* warnings before conducting interrogation, the California Supreme Court considered as a factor whether the officer's investigation had focused on the suspect. Relying on its prior rulings—including Beckwith v. United States, 425 U.S. 341 (1976), Berkemer v. McCarty, 468 U.S. 420 (1984), California v. Beheler, 463 U.S. 1121 (1983), and Minnesota v. Murphy, 465 U.S. 420 (1984)—the court rejected that factor in determining custody. The Court noted that the determination of custody depends on the objective circumstances of the interview, not on the subjective views of the interrogating officers or the person being questioned. An officer's views concerning the nature of an interrogation or beliefs concerning the potential culpability of the person being questioned may be one of many factors in determining the custody issue, but only if the officer's views or beliefs are somehow manifested to the person and would have affected how a reasonable person in that position would perceive one's freedom to leave. See generally Farb, *Arrest, Search, and Investigation in North Carolina*, p. 213 (2d ed. 1992).

(The Court noted that even a clear statement from an officer that the person is a prime suspect is not, in itself, dispositive of the custody issue, since some suspects are free to come and go until an officer decides to make an arrest. The Court also noted that an officer's undisclosed views may be relevant in testing the credibility of the officer's account of what happened during an interrogation; but it is the objective surroundings, not any undisclosed views, that control the custody issue.)

Capital Case Issues

When Defendant's Future Dangerousness Is In Issue, And State Law Prohibits Defendant's Release On Parole, Due Process Requires That Sentencing Jury Must Be Informed That Defendant Is Ineligible For Parole

Simmons v. South Carolina, 114 S.Ct. 2187, 129 L.Ed.2d. 133, 55 Crim. L. Rep. 2181 (17 June 1994). The defendant was being tried for capital murder, and he was ineligible for parole if he was convicted of that offense. The defendant was convicted of capital murder. The prosecutor argued in the sentencing hearing that the jury should consider the defendant's future dangerousness in deciding whether to impose the death penalty (although future dangerousness is not a statutory aggravating circumstance, evidence in aggravation under South Carolina law is not limited to statutory circumstances). The trial judge refused defendant's request that the jury be instructed that the defendant was ineligible for parole if he was sentenced to life imprisonment. The Court ruled that when the defendant's future dangerousness is in issue, and state law prohibits the defendant's release

on parole, due process requires that the sentencing jury must be informed that defendant is ineligible for parole.

[Based on the analyses and statements in the various opinions in this case, the ruling appeared not to affect current North Carolina law that prohibits comment on parole eligibility except when there is a jury inquiry—and then the judge must instruct the jury that life imprisonment means imprisonment for life in the State's prison. See, e.g., *State v. Robbins*, 319 N.C. 465, 356 S.E.2d 279 (1987). In contrast with South Carolina law, future dangerousness is not an aggravating factor under North Carolina law and a person sentenced to life imprisonment is not ineligible for parole.

Effective for offenses committed on or after October 1, 1994, a defendant sentenced to life imprisonment for first-degree murder will not be eligible for parole; however, G.S. 15A-2002 (in the version applicable to those offenses) will require a trial judge to instruct the jury that a sentence of life imprisonment means a sentence of life without parole.]

No Double Jeopardy Or Collateral Estoppel Violations In Death Sentencing Hearing

Schiro v. Farley, 114 S.Ct. 783, 127 L.Ed.2d. 47, 54 Crim. L. Rep. 2070 (19 January 1994). The jury returned on verdict sheet a verdict of guilty of felony (rape) murder but left blank its verdict on the charge of intentional murder. Trial judge imposed a death sentence, finding as a statutory aggravating factor that the defendant intentionally killed the victim while committing rape. (1) The Court rejected defendant's argument that the double jeopardy clause was violated because his sentencing proceeding constituted a successive prosecution for intentional murder. The clause does not apply to a single prosecution in which a sentencing hearing follows a trial. (2) The Court did not address the defendant's argument whether principles of collateral estoppel would bar the use of the "intentional murder" aggravating factor because the defendant failed to meet his burden of establishing the factual predicate for applying that principle, even if it were applicable. That is, the defendant failed to establish, based on the facts in this case, that the jury's act in leaving the verdict blank for intentional murder was an acquittal of that theory of murder.

Admission During Capital Sentencing Hearing Of Defendant's Prior Death Sentence In Another Case Was Not Error, Based On Facts In This Case

Romano v. Oklahoma, 114 S.Ct. 2004, 129 L.Ed.2d. 1, 55 Crim. L. Rep. 2171 (13 June 1994). The defendant was convicted of murder and sentenced to death. He later was convicted of another murder and, during the sentencing hearing before the jury, evidence of the prior murder conviction and death sentence was introduced (there were two aggravating factors relating to the prior murder conviction—prior violent felony conviction and the defendant would constitute a continuing threat to society). The defendant objected to the jury's being informed of the death sentence. The Court ruled, based on the facts in this case, that the admission of the death sentence information did not affirmatively mislead the jury in violation of Caldwell v. Mississippi, 472 U.S. 320 (1985) and did not violate the defendant's rights under the Eighth or Fourteenth Amendments.

[Note: At a resentencing hearing, a prospective juror's knowledge that a prior sentencing jury had recommended the death penalty is not automatically disqualifying. See State v. Simpson, 331 N.C. 267, 415 S.E.2d 351 (1992).]

Factors To Be Considered In California's Death Penalty Hearing Are Not Unconstitutionally Vague

Tuilaepa v. California, 114 S.Ct. 2630, 129 L.Ed.2d. 750, 55 Crim. L. Rep. 2244 (30 June 1994). The Court examined three particular factors that are used to determine the death penalty in California's death penalty hearing and ruled that they are not unconstitutionally vague under the Eighth Amendment.

Indigent Capital Defendant Entitled To Counsel And May Ask For Stay Of Execution Before Filing Federal Habeas Petition

McFarland v. Scott, 114 S.Ct. 2778, 129 L.Ed.2d. 890, 55 Crim. L. Rep. 2252 (30 June 1994). The Court ruled that an indigent capital defendant is entitled to counsel and may apply for a stay of execution before filing a formal federal habeas corpus petition.

Miscellaneous

***Batson* Ruling Applies To Peremptory Challenges Based On Gender**

J. E. B. v. Alabama, 114 S.Ct. 1419, 128 L.Ed.2d. 89, 55 Crim. L. Rep. 2003 (19 April 1994). The Court ruled that the ruling in Batson v. Kentucky, 476 U.S. 79, 106 S.Ct. 1712, 90 L.Ed.2d 69 (1986) (no racial discrimination in exercise of peremptory challenges), applies to the exercise of peremptory challenges based on gender.

Collateral Attack Of Prior Conviction Is Limited To Violation Of Right-To-Counsel Claim

Custis v. United States, 114 S.Ct. 1732, 128 L.Ed.2d. 517, 55 Crim. L. Rep. 2098 (23 May 1994). The Court ruled that although a defendant has a federal constitutional right to collaterally attack a prior conviction because it was obtained in violation of an indigent's constitutional right to counsel, a defendant has no federal constitutional right to collaterally attack a prior conviction on other grounds, such as (1) the guilty plea was obtained without proper advice about waiver of rights as required by Boykin v. Alabama, 395 U.S. 238 (1969), or (2) the defendant's lawyer provided ineffective assistance of counsel under the Sixth Amendment. The Court ruled that a trial judge at a federal sentencing hearing had properly barred the defendant from attacking—under the grounds specified in (1) and (2) above—prior state convictions offered by the government to enhance a federal sentence.

The Court stated that the defendant could attack his state convictions in state court or through federal habeas review. If he was successful, he then could apply for reopening of any federal sentence enhanced by the state convictions (although the Court stated that it expresses no opinion on the appropriate disposition of such an application).

[The North Carolina Court of Appeals in State v. Stafford, 114 N.C. App. 101, 440 S.E.2d 846 (1994) ruled that a defendant may not collaterally attack prior DWI convictions on *Boykin* grounds when the convictions are offered to prove the offense of habitual impaired driving. The *Stafford* ruling is consistent with the *Custis* ruling, and it would also bar a defendant from collaterally attacking a prior conviction on *Boykin* grounds when the state seeks to use the conviction at

sentencing or to impeach the defendant with that conviction. See State v. Muscia, 115 N.C. App. 498, 445 S.E.2d 86 (1994) (court rules, relying on *Stafford*, that the defendant was properly denied collateral attack of a prior DWI conviction used in sentencing for a DWI offense). A defendant's remedy would be to directly attack the prior conviction (if it occurred in a North Carolina state court) by a motion for appropriate relief under G.S. 15A-1415 in the court where the conviction occurred.

For right-to-counsel violations, G.S. 15A-980 allows a defendant to collaterally attack a prior conviction that the state seeks to use for impeachment or sentencing purposes. Thus, North Carolina statutory law is consistent with federal constitutional law as described in *Custis*.

The North Carolina Court of Appeals has ruled that a defendant has the burden of proof when seeking to set aside a conviction on *Boykin* grounds. State v. Hester, 111 N.C. App. 110, 432 S.E.2d 171 (1993). And, G.S. 15A-980 specifically provides that a defendant has the burden of proof when seeking to set aside a conviction on right-to-counsel grounds.]

Prior Uncounseled Misdemeanor, When No Active Sentence Imposed, Is Valid For Later Use

Nichols v. United States, 114 S.Ct. 1921, 128 L.Ed.2d. 745, 55 Crim. L. Rep. 2136 (6 June 1994). The defendant in *Nichols* was assessed one point in a federal sentencing hearing for a prior state misdemeanor conviction for driving under the influence, for which he was fined but not incarcerated. The defendant, relying on the Baldasar v. Illinois, 446 U.S. 222 (1980) (prior uncounseled misdemeanor conviction—even though valid because active imprisonment was not imposed—may not be used to elevate a second misdemeanor offense to a felony), objected to the use of that conviction, arguing that he was indigent and had not been represented by counsel at that trial and had not waived his right to counsel.

The Court examined the various opinions constituting a majority in *Baldasar* and overruled the case, finding its reasoning unsound. The Court ruled that since an uncounseled misdemeanor conviction is constitutionally valid if a defendant does not receive an active sentence for that conviction, that conviction may constitutionally be used in a later proceeding, including a sentencing hearing. [Note: if the defendant in *Nichols* had received an active sentence for the misdemeanor conviction, then the conviction would not have been valid unless the defendant had counsel or properly waived the right to counsel.]

[G.S. 15A-980 authorizes a defendant to make a motion to suppress a prior conviction that was obtained in "violation of [the] right to counsel." If the motion is based on a federal constitutional right to counsel, the *Nichols* ruling would not bar the state from using a prior uncounseled misdemeanor conviction when active imprisonment was not imposed for that conviction. For example, a defendant is convicted of misdemeanor DWI and sentenced to Level V and active imprisonment is not imposed as a condition of special probation. Even if the defendant was indigent at the time of the conviction and did not have counsel or waive counsel, there is no federal constitutional impediment to the state's later use of that conviction at sentencing for a different offense, to prove an element of an different offense (e.g., felony habitual impaired driving), or to impeach the defendant with that conviction.

The *Nichols* ruling does not affect the North Carolina Supreme Court's ruling in State v. Neeley, 307 N.C. 247 (1982). The court ruled in *Neeley* that a trial judge may not activate an indigent defendant's suspended sentence if—at the original trial at which the suspended sentence was

imposed—the defendant did not have counsel and had not properly waived the right to counsel. This ruling is natural corollary of *Argersinger* and is not affected by *Nichols*.]

Montana's Drug Tax Is Punitive And Therefore Is Subject To Double Jeopardy Prohibition Against Successive Punishments For Same Offense

Department of Revenue of Montana v. Kurth Ranch, 114 S.Ct. 1937, 128 L.Ed.2d. 767, 55 Crim. L. Rep. 2144 (6 June 1994). Members of the Kurth family were arrested for drug offenses, their marijuana plants were seized and destroyed, and they plead guilty to various drug charges. The Kurths later filed a petition for Chapter 11 bankruptcy. In bankruptcy proceedings, the Kurths objected to the drug tax assessment of $181,000 on 1,811 ounces of harvested marijuana, based on the state department of revenue's claim for unpaid drug taxes. The Court examined the state's drug tax and determines that it has punitive characteristics that subject it to the double jeopardy clause: (1) the tax was more than eight times the drug's market value; (2) the tax had an obvious deterrent purpose; (3) the tax was conditioned on the commission of a crime—the tax assessment was exacted only after taxpayer has been arrested for precise conduct that results in the tax assessment; and (4) although the tax purports to be a species of property tax, it is levied on goods that the taxpayer neither owns nor possesses when the tax is imposed. The Court ruled that the state proceeding to collect the drug tax on the possession of the drugs was the functional equivalent of a successive criminal prosecution (i.e., it occurred in a separate proceeding after the guilty pleas to the criminal offenses) that placed the Kurths in jeopardy a second time for the same offense. Therefore, the assessment of the drug tax was barred by the double jeopardy clause. [The Court did not decide whether it would be constitutional to impose this drug tax in the same proceeding as the criminal prosecution or whether imposition of such a drug tax would bar a later criminal prosecution.]

[North Carolina's drug tax law is contained in G.S. 105-113.105 through -113.113. It differs in two significant ways from the Montana drug tax. First, the Montana tax is a property tax levied only at arrest and collected only after a criminal conviction is obtained (i.e., the tax may be collected only after fines or forfeitures have been satisfied). The North Carolina tax is an excise tax that is payable within 48 hours after a person comes into possession of the drugs; the imposition and payment of the tax is not contingent on an arrest, criminal prosecution, or conviction. Second, unlike the Montana tax—which may be imposed when the person no longer owns or possesses the drugs—the North Carolina tax is imposed on drugs when the person possesses them. Thus, the North Carolina tax may be sufficiently distinguishable from the Montana tax so it is not a punishment subject to the double jeopardy clause's prohibition against multiple punishments for the same offense.]

Court Narrows Scope Of Admissible Evidence Under Federal Evidence Rule 804(b)(3) (Declaration Against Interest) To Those Statements Within Declarant's Narrative That Are Individually Self-Inculpatory

Williamson v. United States, 114 S.Ct. 2431, 129 L.Ed.2d. 476, 55 Crim. L. Rep. 2231 (27 June 1994). The government in a drug prosecution introduced, under Federal Evidence Rule 804(b)(3) (statement against interest), statements of the defendant's accomplice, Harris. The statements were introduced after Harris had asserted his Fifth Amendment privilege and refused to testify. Parts of the statements were, as described by the Court, "self-inculpatory" (incriminating as to Harris) and parts

were "non-self-inculpatory" (not incriminating as to Harris, and they also included statements incriminating as to the defendant). The Court ruled that Rule 804(b)(3) does not allow the admission of non-self-inculpatory statements, even if they are made within a broader narrative that is generally self-inculpatory. (That is, collateral statements, even those neutral as to the declarant's interest, are not admissible.) The court stated that a trial judge "may not just assume for purposes of Rule 804(b)(3) that a statement is self-inculpatory because it is part of a fuller confession, and this is especially true when the statement implicates someone else."

[Although North Carolina appellate courts are not bound by the Court's nonconstitutionally-based ruling concerning this federal rule of evidence, they often give weight to such a ruling when interpreting similar state rules of evidence. Note, however, that the North Carolina Supreme Court's ruling in State v. Wilson, 322 N.C. 117, 367 S.E.2d 589 (1988) differs from the *Williamson* ruling. The court in *Wilson* ruled that a declarant's collateral statements (in this case, a murder victim's statements inculpating the defendant) were admissible under Rule 804(b)(3)—even though they were themselves neutral to the declarant's interest—when they were integral to a more encompassing statement that was against the declarant's interest. Of course, there are also constitutional confrontation clause issues involved in admitting an accomplice's statements; see Lee v. Illinois, 476 U.S. 530 (1986) and White v. Illinois, 502 U.S. 346 (1992). For other North Carolina cases on Rule 804(b)(3), see State v. Brown, 335 N.C. 477, 439 S.E.2d 589 (1994); State v. Tucker, 331 N.C. 12, 414 S.E.2d 548 (1992); State v. Levan, 326 N.C. 155, 388 S.E.2d 429 (1990); State v. Artis, 325 N.C. 278, 384 S.E.2d 470 (1989); State v. Eggert, 110 N.C. App. 614, 430 S.E.2d 699 (1993); State v. Singleton, 85 N.C. App. 123, 354 S.E.2d 259 (1987).]

Federal Habeas Corpus Is Unavailable For State Prisoner In Reviewing Some Alleged Violations Of Speedy Trial Provisions Of Interstate Agreement On Detainers

Reed v. Farley, 114 S.Ct. 2291, 129 L.Ed.2d. 277, 55 Crim. L. Rep. 2192 (20 June 1994). The Court ruled that federal habeas corpus review is barred when the issue is the state's alleged failure to comply with the 120-day speedy trial rule in the Interstate Agreement On Detainers and the defendant did not object to the trial date when it was set and did not suffer prejudice attributable to the delayed start of the trial.

No Substantive Due Process Claim To Be Free From Prosecution Except When Probable Cause Exists To Charge

Albright v. Oliver, 114 S.Ct. 807, 127 L.Ed.2d. 114, 54 Crim. L. Rep. 2081 (24 January 1994). Albright was arrested for a criminal offense and released on bond. A trial judge later dismissed the charge because it did not state an offense under state law. Albright then brought a § 1983 action against the arresting officer and others that alleged that the officer's act violated his substantive right under the due process clause of the Fourteenth Amendment to be free from criminal prosecution except when probable cause exists to charge. A four-Justice plurality opinion ruled that such a claim does not exist under the due process clause. Without expressing a view whether Albright's claim would succeed under the Fourth Amendment, the court ruled that the issue should be analyzed under that constitutional provision.

Due Process Requires Hearing Before Seizing Real Property For Forfeiture

United States v. James Daniel Good Real Property, 114 S.Ct. 492, 126 L.Ed.2d. 490, 54 Crim. L. Rep. 2009 (13 December 1993). The Court ruled that the due process clause requires that, absent exigent circumstances, the government first must give the owner of real property a hearing before seizing the real property for forfeiture. (Note: This ruling does not apply to the seizure of personal property for forfeiture.)

Federal RICO Action Does Not Require Proof That Acts Motivated By Economic Harm

National Organization For Women v. Scheidler, 114 S.Ct. 798, 127 L.Ed.2d. 99, 54 Crim. L. Rep. 2095 (24 January 1994). Plaintiffs in federal civil RICO action (action brought against defendants for allegedly conspiring to shut down abortion clinics through pattern of racketeering activity) are not required to prove that either the racketeering enterprise or the predicate acts of racketeering were motivated by an economic purpose.

***Teague v. Lane* Bars Consideration Of State Prisoner's Federal Habeas Claim**

Caspari v. Bohlen, 114 S.Ct. 948, 127 L.Ed.2d. 236, 54 Crim. L. Rep. 2160 (23 February 1994). State prisoner brought federal habeas claim that asserted that the double jeopardy clause bars a state from twice subjecting a criminal defendant to a noncapital sentence enhancement proceeding. The court ruled that (1) a federal court may, but need not, decline to apply *Teague v. Lane*, 489 U.S. 288 (1989) (nonretroactive principle bars federal habeas relief if asserted claim would announce "new rule" of constitutional law), if the state does not raise the *Teague* issue, and (2) prisoner's claim in this case was barred on *Teague v. Lane* principles.

All Relevant Legal Authority Must Be Considered In Determining Qualified Immunity Under § 1983

Elder v. Holloway, 114 S.Ct. 1019, 127 L.Ed.2d. 344, 54 Crim. L. Rep. 2164 (23 February 1994). The Court ruled that an appellate court, when reviewing a judgment providing public officials with qualified immunity from a damages suit under § 1983, must consider all relevant legal authority, even if not presented in the district court by the plaintiff or mentioned by the district court in its opinion.

Limitations Placed On § 1983 Lawsuit Challenging Constitutionality Of Conviction

Heck v. Humphrey, 114 S.Ct. 1280, 128 L.Ed.2d. 1, 55 Crim. L. Rep. 2219 (24 June 1994). The Court ruled that to recover damages for an allegedly unconstitutional conviction or imprisonment or for other harm caused by actions whose unlawfulness would render a conviction or sentence invalid, a § 1983 plaintiff must prove that the conviction or sentence has been reversed on direct appeal, expunged by executive order, declared invalid by a state tribunal authorized to make such a determination, or called into question by a federal court's issuance of a writ of habeas corpus.

Criminal Ruling Applies Retroactively To All Cases Not Yet Final When Rule Is Announced

Powell v. Nevada, 114 S.Ct. 1280, 128 L.Ed.2d. 1, 54 Crim. L. Rep. 2238 (30 March 1994). Nevada Supreme Court erred in not applying retroactively United States Supreme Court ruling in County of Riverside v. McLaughlin, 500 U.S. 44 (1991), since case was pending and not yet final when the Court's ruling was announced. See Griffith v. Kentucky, 479 U.S. 314 (1987).

Civil Liability Standard Is Defined For "Deliberate Indifference" Under Eighth Amendment

Farmer v. Brennan, 114 S.Ct. 1970, 128 L.Ed.2d. 811, 55 Crim. L. Rep. 2156 (6 June 1994). The Court ruled that the civil liability standard, "deliberate indifference," under the Eighth Amendment means that the prison official knows that inmates face a substantial risk of serious harm and disregards that risk by failing to take reasonable measures to abate it.