

UNITED STATES COURT OF APPEALS FOR THE SECOND CIRCUIT

Matias v. Artuz

8 F. App'x 9 (2d Cir. 2001) · Decided March 27, 2001

SUMMARY

The Second Circuit denied Jose Matias's motions for a certificate of appealability, in forma pauperis status, and appointment of counsel, and dismissed for lack of appellate jurisdiction. The court held that reasonable jurists would not debate whether Matias's underlying habeas claims—concerning jury instructions and sentence proportionality—stated constitutional violations. The court declined to resolve whether the Southern District of New York improperly treated Matias's earlier, unfiled habeas petition as untimely under AEDPA.

CASE DETAILS

COURT	United States Court of Appeals for the Second Circuit
JURISDICTION	Federal
DECIDED	March 27, 2001
DISPOSITION	dismissed
PROCEDURAL POSTURE	Petitioner appealed the Southern District of New York's dismissal of his 28 U.S.C. § 2254 habeas petition as untimely and moved for a certificate of appealability, in forma pauperis status, and appointment of counsel.
STANDARD OF REVIEW	Under <i>Slack v. McDaniel</i> , when a habeas petition is dismissed on procedural grounds without reaching the underlying constitutional claim, a certificate of appealability issues only if jurists of reason would find both the constitutional claim and the procedural ruling debatable.
PRECEDENTIAL VALUE	nonprecedential summary order
PARTIES	Jose Matias v. Artuz

TOPICS

- federal habeas corpus
- appellate jurisdiction
- due process
- cruel and unusual punishment
- standard of review

PRACTICE AREAS

- federal habeas corpus
- post-conviction relief
- appellate procedure
- constitutional law

QUESTIONS PRESENTED

1. Whether Matias was entitled to a certificate of appealability to challenge the procedural dismissal of his habeas petition under *Slack v. McDaniel*.
2. Whether reasonable jurists could debate the constitutional merits of Matias's claims that the trial court violated due process by failing to instruct on justification and intoxication.
3. Whether reasonable jurists could debate Matias's claim that his sentence was cruel and unusual because it was disproportionately harsh.
4. Whether the Second Circuit could resolve the effect of the district court's return of Matias's original petition on the AEDPA limitations period and Suspension Clause issues in this appeal.

HOLDINGS

1. A certificate of appealability is unavailable unless the petitioner shows that reasonable jurists could debate both whether the petition states a valid constitutional claim and whether the district court's procedural ruling was correct.
2. Matias was not entitled to habeas relief based on the alleged failure to instruct the jury on justification and intoxication because the state trial court correctly applied state law, and a state-law instructional error must also amount to a violation of federal law to support habeas relief.
3. Matias's sentence was not unconstitutionally disproportionate to the crimes for which he was convicted and therefore did not constitute cruel and unusual punishment.

KEY QUOTATIONS

“When the district court denies a habeas petition on procedural grounds without reaching the prisoner’s underlying constitutional claim, a [certificate of appeal-ability] should issue when the prisoner shows, at least, that jurists of reason would find it debatable whether the petition states a valid claim of the denial of a constitutional right and that jurists of reason would find it debatable whether the district court was correct in its procedural ruling.” (at 11-12)

“Accordingly, Matias’s motions for a certificate of appealability, in forma pauperis status, and assignment of counsel are DENIED, and Matias’s habeas petition is DISMISSED for lack of appellate jurisdiction.” (at 14)

FACTUAL BACKGROUND

Matias was convicted in 1994 of two counts of second-degree murder and one count of second-degree criminal possession of a weapon and received consecutive terms of twenty-five years to life for the murder convictions, concurrent with five to fifteen years for weapon possession. His conviction became final for AEDPA purposes on July 6, 1997. He submitted a habeas petition dated May 6, 1998, within the one-year limitations period, but the district court returned it without docketing because he had not paid the filing fee or sought in forma pauperis status. He later filed a substantially identical petition in April 1999, which the district court dismissed as untimely.

PROCEDURAL HISTORY

Matias was convicted in New York state court, and the Appellate Division affirmed his conviction; the New York Court of Appeals denied leave to appeal. He submitted an initial habeas petition in May 1998, which the district court's Pro Se Office returned because it was unaccompanied by the filing fee or an in forma pauperis application. He filed the operative § 2254 petition in April 1999. The district court dismissed it as untimely under AEDPA in March 2000, and the Second Circuit construed his timely notice of appeal as a motion for a certificate of appealability.

DISPOSITION

dismissed

CASES CITED

- People v. Matias, 235 A.D.2d 298, 653 N.Y.S.2d 308 (1st Dep't 1997)
- People v. Matias, 89 N.Y.2d 1038, 659 N.Y.S.2d 869, 681 N.E.2d 1316 (1997)
- Williams v. Artuz, 237 F.3d 147, 150 (2d Cir. 2001)
- Ross v. Artuz, 150 F.3d 97, 98 (2d Cir. 1998)
- Lozada v. United States, 107 F.3d 1011, 1017 (2d Cir. 1997)
- United States v. Perez, 129 F.3d 255 (2d Cir. 1997)
- Williams v. Kullman, 722 F.2d 1048, 1050-51 (2d Cir. 1983)
- United States ex rel. Buford v. Henderson, 524 F.2d 147, 152 (2d Cir. 1975)
- Haines v. Kerner, 404 U.S. 519, 520-21 (1972) (per curiam)
- Slack v. McDaniel, 529 U.S. 473, 483-84 (2000)
- Sams v. Walker, 18 F.3d 167, 171 (2d Cir. 1994)
- Solem v. Helm, 463 U.S. 277, 290-92 (1983)
- Harmelin v. Michigan, 501 U.S. 957, 998-1001 (1991) (Kennedy, J., concurring)
- Bethea v. Scully, 834 F.2d 257, 261 (2d Cir. 1987)
- Muniz v. United States, 236 F.3d 122, 128-29 (2d Cir. 2001)
- Lonchar v. Thomas, 517 U.S. 314, 324 (1996)
- Weaver v. United States, 195 F.3d 123, 124 (2d Cir. 1999) (per curiam)
- Rodriguez v. Artuz, 161 F.3d 763, 764 (2d Cir. 1998) (per curiam)
- Nichols v. Bowersox, 172 F.3d 1068, 1073-77 (8th Cir. 1999) (en banc)
- Jones v. Bertrand, 171 F.3d 499, 502-04 (7th Cir. 1999)
- Spotville v. Cain, 149 F.3d 374, 377-78 (5th Cir. 1998) (per curiam)
- Lucidore v. New York State Division of Parole, 209 F.3d 107, 112-14 (2d Cir. 2000)
- Clark v. Stinson, 214 F.3d 315, 319 (2d Cir. 2000)
- Galtieri v. United States, 128 F.3d 33, 36 (2d Cir. 1997)
- Warren v. Garvin, 219 F.3d 111, 113 (2d Cir. 2000)
- Adeline v. Stinson, 206 F.3d 249, 251 n.1 (2d Cir. 2000) (per curiam)

- *Houston v. Lack*, 487 U.S. 266, 276 (1988)

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