July 1, 1976

No. 74-1055 Stone v. Powell

Dear Mr. Putzel:

The lineup in the above cases is as follows:

Powell, J., delivered the opinion of the Court, in which Burger, C.J., and Stewart, Blackmun, Rehnquist and Stevens, JJ, joined. Brennan, J., filed a dissenting opinion in which Marshall, J., joined. White, J., filed a dissenting opinion.

L.F.P., Jr.

cc: Mr. Cornio
As these two cases present the same issue, we deal with them in a single opinion. Both come from U.S. Courts of Appeals, one from the Sixth and the other from the Ninth Circuit.

Each of the respondents was convicted of murder in trials in California and Nebraska state courts, and their convictions were affirmed on appeal. Thereafter, each sought federal habeas corpus relief under 28 U.S.C. § 2254.

They contended that evidence seized during illegal searches and seizures - the murder weapon in one case, and dynamite particles in the defendant's pocket in the other - should have been excluded from evidence under the exclusionary rule. The federal courts of appeals agreed, and granted the writs of habeas corpus.

Petitioners here, wardens of the state prisons, contend that the exclusionary rule - at least in Fourth Amendment cases - should not be applied in federal habeas corpus proceedings. Although this Court, in several prior cases, has assumed the application of the rule, we have never heretofore specifically addressed this issue.

The primary justification for the Exclusionary Rule is the deterrence of unlawful police conduct. The rule
was created by this Court as a means of effectuating the important rights secured by the Fourth Amendment. For many years the rule was not deemed applicable in state courts. But 15 years ago, in Mapp v. Ohio, the Court extended the rule to trials and appeals in the state courts.

Decisions subsequent to Mapp have established that the Exclusionary Rule is not a personal constitutional right.

Even at trial and on direct review the cost of applying the Exclusionary Rule are not insubstantial: the focus of a trial is diverted from the ultimate question of guilt or innocence, that should be the central concern in a criminal proceedings.

Moreover, the physical evidence sought to be excluded under the rule often is the most probative information bearing on the guilt or innocence of the defendant.

Mr. Justice Black, dissenting in Kaufman v. United States (1969), eight years after Mapp, stated:

"A claim of illegal search and seizure is crucially different from many other constitutional rights; ... often [the evidence seized] ... alone establishes beyond virtually any shadow of a doubt that the defendant is guilty."

Application of the rule thus deflects the truth-finding process, and often frees the guilty.
These costs of the Exclusionary Rule apply with special force when, following conviction and appeal in a state court, the issue is again presented on habeas corpus.

Bearing in mind that the primary purpose of the rule is to deter police misconduct, we conclude that the contribution of the rule toward restraining police misconduct is minimal when applied on collateral attack - long after trial and appeal. We make clear the limited scope of our decision.

We do not consider in this case the habeas corpus statute as a means for relitigating constitutional claims generally. We hold only that a federal court need not apply the Exclusionary Rule, on a Fourth Amendment claim, absent a showing that the state prisoner was denied an opportunity for a full and fair litigation of that claim at trial and on direct review.

In short, the application of the rule on habeas is limited to cases in which there has been both such a showing and a Fourth Amendment violation.

The Chief Justice has filed a concurring opinion. Mr. Justice White also has filed a dissenting opinion.

Mr. Justice Brennan has filed a dissenting opinion, in which Mr. Justice Marshall has joined.
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We conclude that the contribution of the rule toward restraining police misconduct is minimal when applied on collateral attack—often long after trial and appeal.

But we make clear the limited scope of our decision. We do not consider in this case the habeas corpus statute as a means for relitigating constitutional claims generally.

We hold only that a federal court need not apply the Exclusionary Rule on a Fourth Amendment claim unless there is a showing that the state prisoner was denied a full and fair hearing on that claim at trial and on direct review.

In short, the application of the rule on habeas is limited to cases in which there has been both such a showing and a Fourth Amendment violation.

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