[PUBLISH]

IN THE UNITED STATES COURT OF APPEALS

FOR THE ELEVENTH CIRCUIT

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No. 16-12866

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D.C. Docket No. 1:11-cv-01694-AT

ASKIA MUSTAFA RAHEEM,

Petitioner - Appellant,

versus

GDCP WARDEN,

Respondent - Appellee.

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Appeal from the United States District Court
for the Northern District of Georgia

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(April 26, 2021)

Before JORDAN, ED CARNES and MARCUS, Circuit Judges.

MARCUS, Circuit Judge:

In this double homicide case, Askia Mustafa Raheem was convicted of

murdering Brandon Hollis and his mother, Miriam Hollis, and sentenced to death

by a Superior Court judge in Georgia. He urges us to overturn his convictions and the ensuing death sentence arguing, among other things, that he received ineffective assistance of counsel at the sentencing phase of his trial because his lawyers failed to investigate and present to the jury additional mitigating evidence about his mental health and social history. Alongside this claim, Raheem says the state trial court violated procedural due process by failing to hold a hearing to determine whether he was competent to stand trial. Because this claim was never raised in the trial court, he attempts to overcome his default by arguing that his counsel were ineffective in not raising the claim. He adds that regardless of the failure to conduct a hearing, his substantive due process rights were violated because he was in fact tried while incompetent.

Raheem also says that his due process rights were violated when he was forced to wear a stun belt during trial, and when the prosecutor made impermissible arguments about his future dangerousness. Because these claims were procedurally defaulted too, he argues again that his counsel were prejudicially ineffective. Finally, Raheem argues that the prosecutor improperly mentioned his failure to testify at trial, denying him the privilege against self-incrimination afforded by the Fifth Amendment.

The Georgia Supreme Court denied Raheem's Fifth Amendment claim on direct review. The state habeas court then denied on the merits Raheem's

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ineffective-assistance-of-counsel claims and found that his claims about competency and being required to wear a stun belt were procedurally defaulted. The denial of these claims was neither contrary to nor an unreasonable application of clearly established law, nor was it based on an unreasonable determination of the facts in light of the overwhelming evidence presented by the state. The district court reviewed for the first time Raheem's substantive due process claim. It did not clearly err when it found that Raheem was competent to stand trial. Accordingly, we affirm.

I.

These are the essential facts and procedural history surrounding this § 2254 petition. In the afternoon of April 2, 1999, Raheem was driving his girlfriend Veronica Gibbs's blue Honda in and around Clayton County, Georgia, just south of Atlanta. He stopped to pick up his friends Michael Jenkins and Dione Feltus from their homes. Later, he dropped Feltus off at work at five o'clock in the afternoon. Raheem decided to go target shooting with Jenkins and another friend, Brandon Hollis, whom Jenkins had never met. Raheem and Jenkins drove to Gibbs's apartment, where Raheem was living, and retrieved a .380-caliber handgun from his bedroom. As this tragic story developed, Raheem then pulled to the side of the road and twice fired his weapon outside the window. Raheem claimed that he wanted to be sure the weapon would not jam.

On his way to pick up Brandon Hollis, Raheem stopped at a Kroger supermarket, where he purchased a box of black trash bags. Raheem and Jenkins picked up Brandon. They drove down a dirt road in Henry County, Georgia, some five minutes from Brandon's home, and they walked into the woods as it started to get dark. Raheem shot the firearm at a tree, but missed his target. Jenkins then took the weapon, intending to fire it. But Brandon suggested that they find another location because the gun was "loud." As Brandon turned and started to walk to the car, Raheem grabbed the firearm. Raheem instructed Brandon not to walk so quickly because he did not have a flashlight and Brandon might step in a puddle and get mud in his girlfriend's car. Jenkins looked down at his shoes to see if they were muddy. When he looked up, Raheem "had the gun at the back of Brandon's head, and he shot him." Brandon fell to the ground. Jenkins asked if Brandon Hollis was dead. Raheem responded, "No, but he is on his way out." Raheem stopped to take Brandon's watch, remarking, "I guess you ain't going to be needing this watch no more." He also stole Brandon's keys and his wallet. When Raheem and Jenkins returned to the car, Raheem told his friend, "I'm glad you didn't run."

Raheem and Jenkins proceeded to Brandon Hollis's home. Raheem used Brandon's keys to open the door. Before entering, Raheem told Jenkins to bring a trash bag into the house. When they walked in, Brandon's mother, Miriam Hollis,

was sitting in a chair reading a book. As Raheem entered brandishing the firearm, Miriam jumped up. Raheem fired at her and jumped behind a wall. Raheem yelled, "Get down, this is a robbery." As Miriam started to lie down on the floor on the other side of the chair, Raheem reached over the chair and shot her. Miriam Hollis fell, blood seeping out of her head onto the carpet. Jenkins handed the garbage bag to Raheem, who placed it over her head to contain the flow of the blood. After making sure no one else was in the house, Raheem grabbed the keys to Miriam's Lexus. Raheem explained that he killed Miriam Hollis because he had paid her $8,000 for the Lexus and she refused to give him the car. Raheem popped the trunk of the Lexus, and he and Jenkins placed Miriam's body inside. Raheem tried to clean the blood off the carpet with a mop.

Later, Raheem and Jenkins visited Raheem's girlfriend, Veronica Gibbs, at a B.P. gas station where she worked. Raheem brought Gibbs outside the station, popped the trunk of the Lexus, and showed her Miriam's body. Raheem and Jenkins then went to eat at a Wendy's, but Jenkins could not keep any food down. The two rode around in Miriam's Lexus until midnight and then picked up Gibbs from work. She, Raheem, and Jenkins drove back to the Hollis home in the Lexus. Gibbs and Raheem proceeded to burglarize the house.

At around 4 a.m., Raheem and Jenkins disposed of Miriam's body. They drove to some train tracks and took her body out of the trunk. Raheem dragged the

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