

[PUBLISH]

In the
United States Court of Appeals
For the Eleventh Circuit

No. 18-12147

WILLIE JAMES PYE,

Petitioner-Appellant,

versus

WARDEN, GEORGIA DIAGNOSTIC PRISON,

Respondent-Appellee.

Appeal from the United States District Court
for the Northern District of Georgia
D.C. Docket No. 3:13-cv-00119-TCB

Before WILLIAM PRYOR, Chief Judge, WILSON, JORDAN, ROSENBAUM, JILL PRYOR, NEWSOM, BRANCH, LUCK, LAGOA, and BRASHER, Circuit Judges.*

NEWSOM, Circuit Judge, delivered the opinion of the Court, in which WILLIAM PRYOR, Chief Judge, and BRANCH, LUCK, LAGOA, and BRASHER, Circuit Judges, joined.

JORDAN, Circuit Judge, filed an opinion concurring in the judgment, in which ROSENBAUM, Circuit Judge, joined.

JILL PRYOR, Circuit Judge, filed a dissenting opinion, in which WILSON, Circuit Judge, joined.

NEWSOM, Circuit Judge:

More than a quarter century ago, Willie James Pye was convicted by a Georgia jury of having kidnapped, robbed, gang-raped, and viciously murdered Alicia Yarbrough. The jury recommended that Pye be sentenced to death for his crimes, and the trial judge so sentenced him. Having exhausted his state post-conviction remedies, Pye filed a federal habeas corpus petition, arguing, as relevant here, that his trial counsel rendered him constitutionally ineffective assistance in connection with the sentencing phase of his trial. The district court denied relief, but a panel of this Court reversed and vacated Pye's death sentence, holding that the state court's rejection of his ineffective-assistance-of-counsel claim was based on an

*Judge Grant is recused.

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unreasonable determination of the facts and involved an unreasonable application of clearly established federal law. *See Pye v. Warden, Ga. Diagnostic Prison*, 853 F. App'x 548, 570–71 (11th Cir.), *reh'g en banc granted*, 9 F.4th 1372 (11th Cir. 2021); 28 U.S.C. § 2254(d).

We granted rehearing en banc to decide whether the state court's decision that Pye is not entitled to relief on his ineffective-assistance claim warrants deference under the Antiterrorism and Effective Death Penalty Act (AEDPA). Because the state court reasonably concluded that Pye was not prejudiced by any of his counsel's alleged deficiencies in connection with his sentencing proceeding, we affirm the district court's denial of Pye's petition and remand to the panel for further proceedings.

I

A

The Georgia Supreme Court's decision on direct appeal recounts the grisly facts of Pye's crimes:

Pye had been in a sporadic romantic relationship with the victim, Alicia Lynn Yarbrough, but, at the time of her murder, Ms. Yarbrough was living with another man, Charles Puckett. Pye and two companions, Chester Adams and Anthony Freeman, planned to rob Puckett because Pye had heard that Puckett had just collected money from the settlement of a lawsuit. Pye was also angry because Puckett had

signed the birth certificate of a child whom Pye claimed as his own.

The three men drove to Griffin[, Georgia] in Adams' car and, in a street transaction, Pye bought a large, distinctive .22 pistol. They then went to a party where a witness observed Pye in possession of the large .22. Just before midnight, the three left the party and drove toward Puckett's house. As they were leaving, a witness heard Pye say, "it's time, let's do it." All of the men put on the ski masks which Pye had brought with him, and Pye and Adams also put on gloves.

They approached Puckett's house on foot and observed that only Ms. Yarbrough and her baby were home. Pye tried to open a window and Ms. Yarbrough saw him and screamed. Pye ran around to the front door, kicked it in, and held Ms. Yarbrough at gunpoint. After determining that there was no money in the house, they took a ring and a necklace from Ms. Yarbrough and abducted her, leaving the infant in the house. The men drove to a nearby motel where Pye rented a room using an alias. In the motel room, the three men took turns raping Ms. Yarbrough at gunpoint. Pye was angry with Ms. Yarbrough and said, "You let Puckett sign my baby's birth certificate."

After attempting to eliminate their fingerprints from the motel room, the three men and Ms.

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Yarbrough left in Adams' car. Pye whispered in Adams' ear and Adams turned off onto a dirt road. Pye then ordered Ms. Yarbrough out of the car, made her lie face down, and shot her three times, killing her. As they were driving away, Pye tossed the gloves, masks, and the large .22 from the car. The police later recovered these items and found the victim's body only a few hours after she was killed. A hair found on one of the masks was consistent with the victim's hair, and a ballistics expert determined that there was a 90% probability that a bullet found in the victim's body had been fired by the .22. Semen was found in the victim's body and DNA taken from the semen matched Pye's DNA. When Pye talked to the police later that day, he stated that he had not seen the victim in at least two weeks. However, Freeman confessed and later testified for the State.

Pye v. State, 505 S.E.2d 4, 9–10 (Ga. 1998). Based on the evidence presented, a Georgia jury found Pye guilty of malice murder, kidnapping with bodily injury, armed robbery, burglary, and rape.

Attorney Johnny Mostiler represented Pye at both the guilt and penalty phases of his trial. At sentencing, Mostiler—with help from his investigator Dewey Yarbrough, who had no relation to the victim—called eight witnesses to testify on Pye's behalf: Pye's sister Pam Bland, sister Sandy Starks, brother Ricky Pye, father Ernest Pye, niece Chanika Pye, nephew Dantarius Usher, sister-in-law Bridgett Pye, and family friend Lillian Buckner. While Mostiler elicited some testimony about Pye's impoverished upbringing—

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