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# Recent Developments: Buchanan v. Angelone: Instructions on Mitigating Evidence in Capital Sentencing Process Not Required under U.S. Constitution

Natasha Wrae

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## *Buchanan v. Angelone:*

In *Buchanan v. Angelone*, 118 S.Ct. 757 (1998), the United States Supreme Court held that the Eighth and Fourteenth Amendments of the United States Constitution are not violated when jury instructions fail to address the concepts of mitigating evidence and particular statutorily defined mitigating factors presented in capital sentencing hearings. Therefore, in this case the Supreme Court maintained that Eighth Amendment requirements of individualized sentencing in capital cases are satisfied when the jury is allowed to consider all relevant evidence.

Douglas McArthur Buchanan, Jr. ("Buchanan") murdered his father, stepmother, and younger brothers on September 15, 1987. After the conviction for the capital murders and subsequent death sentencing, Buchanan sought a writ of habeas corpus claiming that the jury that imposed his sentence was improperly instructed with regard to mitigating evidence.

In the Circuit Court of Amherst County, Virginia, Buchanan was convicted by a jury under the Virginia statute for the "capital murder of more than one person as part of the same act or transaction." Buchanan was subsequently sentenced to death by the jury which was imposed by the court through a

### INSTRUCTIONS ON MITIGATING EVIDENCE IN CAPITAL SENTENCING PROCESS NOT REQUIRED UNDER U.S. CONSTITUTION

By Natasha Wrae

statutorily mandated sentencing hearing. The conviction and death sentence were affirmed by the Virginia Supreme Court on direct appeal and upon review for proportionality. Buchanan's request for federal habeas relief was denied by the United States District Court for the Western District of Virginia. The Court of Appeals for the Fourth Circuit held that by allowing the jury to consider all relevant mitigating evidence, Virginia's sentencing procedure satisfied the Eighth Amendment requirement of individualized sentencing in capital cases. The Supreme Court of the United States granted certiorari and affirmed.

Preliminarily, the Court analyzed the two different aspects of the capital sentencing process: the eligibility phase and the selection phase. *Buchanan*, 118 U.S. at 761. The Court defined the eligibility phase as the phase in which "the jury narrows the class of defendants eligible for the death penalty."

*Id.* (citing *Tuilaepa v. California*, 512 U.S. 967, 971 (1994)). The selection phase was defined as the phase in which "the jury determines whether to impose a death sentence on an eligible defendant." *Id.* (citing *Tuilaepa*, 512 U.S. at 972). By distinguishing between the two phases the Court was able to define the differing constitutional treatment applied to each phase. In the case at bar, the Court found the selection phase to be applicable because it "emphasized the need for a broad inquiry into all relevant mitigating evidence to allow an individualized determination." *Id.* (citing *Tuilaepa*, 512 U.S. at 971-73). As a result, the Court found that the defendant wrongly argued that discretion to make an individualized determination and have that discretion limited and channeled during the selection phase must both be afforded to the jury. *Id.* A more appropriate argument would have been to assert that only the aspect of discretion to make an individualized determination is to be afforded during the selection phase.

The Court expressed the concern that during the selection phase a jury may be precluded by restrictions on its sentencing determination. *Id.* Such preclusion would not allow the jury to give effect to mitigating evidence. *Id.* Based on this concern the Court looked to the

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applicable standard outlined in *Boyde v. California*, 494 U.S. 370 (1990). *Id.* In *Boyde*, the Court held the standard to be "whether there is a reasonable likelihood that the jury has applied the challenged instruction in a way that prevents the consideration of constitutionally relevant evidence." *Id.* (quoting *Boyde*, 494 U.S. at 380). The Court further stated that its prior "decisions suggest that complete jury discretion is constitutionally permissible." *Id.* at 761-62.

By looking at "the entire context in which the instructions were given," the Court found that the instructions expressly informed reasonable jurors to consider mitigating evidence. *Id.* at 762. The Court further reasoned that a reasonable juror would not disregard four days of defense testimony on Buchanan's background and character and another two days of testimony regarding his family background and mental and emotional problems given the instruction to consider "all the

evidence." *Id.* After analysis of the express language and the context of the challenged jury instructions, the Court found that the jury was not precluded from giving effect to the mitigating evidence. *Id.* at 763.

In a dissenting opinion, Justice Breyer, joined by Justices Stevens and Ginsburg, asserted that the majority misapplied the standard of "whether there is a reasonable likelihood that the jury has applied the challenged instruction in a way that prevents the consideration of constitutionally relevant evidence." *Id.* (Breyer, J., dissenting)(quoting *Boyde*, 494 U.S. at 380). The dissent looked to the natural reading of the language in the state pattern jury instructions and their context. *Id.* at 765. It was determined that attorneys who do not generally represent capital defendants and jurors who are not attorneys will not have the same natural reading of the instructions. *Id.* As a result, the dissenters alleged

that "taking the instructions and the context together, the judge's instructions created a 'reasonable likelihood' that the jury 'applied the challenged instruction in a way that prevents the consideration of constitutionally relevant evidence.'" *Id.* at 766 (citing *Boyde*, 494 U.S. at 380).

With its decision in *Buchanan v. Angelone*, the United States Supreme Court adopted the Fourth Circuit's view that the Eighth Amendment requirement of individualized sentencing in capital cases is satisfied when the jury is allowed to consider all relevant mitigating evidence. In light of the finality of an imposed death sentence, the greatest care should be taken to ensure that each defendant's constitutional rights are strictly enforced. Where there is potential for misinterpretation resulting in a death sentence, the most critical and conservative analysis should be performed since the opportunity to appeal is lost upon execution.