Greene v. Fisher
--- U.S. --- (2011)
Decided November 8, 2011

FACTS: On December, 1993, Greene and four other men robbed a North Philadelphia (PA) grocery store. One of the men shot and killed the store owner. All five were arrested and two confessed, implicating the other three as well. Greene did not confess. At trial, Greene argued for severance of the trials, asserting that "the confessions of his nontestifying codefendants should not be introduced at his trial." The trial court agreed to require that the confessions be redacted to remove names but did not sever the trials.

Greene was convicted of second-degree murder, robbery and conspiracy. He appealed, arguing that Bruton[1] required that his trial be severed. The conviction was upheld, with the Pennsylvania Superior Court holding that the redaction of the names from the confessions cured any error. Greene appealed to the Pennsylvania Supreme Court. During the pendency of that appeal, however, the Court had ruled in Gray v. Maryland,[2] which "considered as a class, redactions that replace a proper name with an obvious blank … notify the jury that a name has been deleted [and] are similar enough to Bruton's unredacted confessions as to warrant the same legal results." The Pennsylvania Supreme Court granted the petition for appeal but later dismissed the action for procedural reasons.

Greene filed for federal habeas corpus, which the U.S. District Court denied. The Third Circuit Court of Appeals affirmed the conviction, holding that when an issue becomes "clearly established" is at the time the state court case is adjudicated on its merits. Greene petitioned for certiorari to the U.S. Supreme Court and was granted review.

ISSUE: For purposes of adjudicating a state prisoner's petition for federal habeas relief, what is the temporal cutoff for whether a decision from this Court qualifies as "clearly established Federal law" under 28 U.S.C. § 2254(d).

HOLDING: When the last state-court decision on the merits (the facts) is decided.

DISCUSSION: The Court ruled that appeals of this nature fall under 28 U.S.C. §2254(d)(1). In such cases, the federal courts must "focus on what a state court knew and did" and whether they applied precedent as of the time the state court rendered the decision. The Court agreed that its decision does not contradict its ruling in Teague v. Lane, which ruled that under Teague, a state-court decision would merit adjudication when a decision becomes "contrary to, or an unreasonable application of, clearly established Federal law, before the conviction became final."[3]

The Court agreed that the "last state-court adjudication on the merits of Greene's Confrontation Clause claim occurred on direct appeal to the Pennsylvania Superior Court." The decision by that court predated Gray by three months. As such, his writ of habeas corpus was prohibited under the

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[1] Bruton v. U.S., 391 U.S. 123 (1968).
[2] 523 U.S. 185 (1998).
[3] 489 U.S. 288 (1989).

statute. (The Court noted that he was in an unusual predicament "of his own creation." He did not file an petition in a timely manner that would have allowed him to proceed under Gray or assert it as a petition for state postconviction relief.")

The Court affirmed Greene's conviction.

For Full Text of Opinion, see http://www.supremecourt.gov/opinions/11pdf/10-637.pdf.