

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

RAYMOND L. BRUTON,	:	
	:	
Petitioner,	:	
	:	
v.	:	CONSOLIDATED
	:	Civil Action No. 01-583-JJF
THOMAS CARROLL, Warden,	:	
	:	
Respondent.	:	

Raymond L. Bruton, Pro Se Petitioner.

Loren C. Meyers, Esquire, Chief of Appeals Division, of THE STATE OF DELAWARE DEPARTMENT OF JUSTICE, Wilmington, Delaware.
Attorney for Respondent.

MEMORANDUM OPINION

January 24, 2003

Wilmington, Delaware

Farnan, District Judge.

Presently before the Court is a Petition Under 28 U.S.C. § 2254 for Writ of Habeas Corpus by a Person in State Custody (D.I. 2) filed by Petitioner Raymond L. Bruton. For the reasons set forth below, Petitioner's Section 2254 Petition will be dismissed and the Writ of Habeas Corpus will be denied.

BACKGROUND

In March 1981, Petitioner was convicted by a jury in the Delaware Superior Court of delivery of heroin. The court sentenced Petitioner to 25 years imprisonment, and Petitioner appealed. While his appeal was pending, Petitioner escaped from custody, and his direct appeal was dismissed. Bruton v. State, No. 257, 1981 (Del. June 15, 1982). Bruton filed several state post-conviction motions for relief, as well as two federal petitions for writ of habeas corpus, all of which were denied.¹

On March 15, 2000, probation officers made a routine visit to Petitioner's residence to check on the status of another probationer, Cheryl Diggs, who lived with Petitioner. Following a conversation between Petitioner and the officers, Petitioner was placed in handcuffs, and the officers searched the house. The search uncovered cocaine and drug paraphernalia. Ms. Diggs

¹ Bruton v. State, No. 208, 1985, 1986 WL 16285 (Del. Jan. 8, 1986); Bruton v. State, No. 25, 1988, 1988 WL 63924 (Del. June 20, 1988); Bruton v. State, No. 463, 2001, 2002 WL 272329 (Del. Feb. 22, 2002); Bruton v. Ellingsworth, Civ. Act. No. 86-143 (D. Del. Aug. 14, 1986); Bruton v. Redmond, Civ. Act. No. 88-570-JJF (D. Del. May 9, 1990).

told the probation officers that the contraband was hers and that Petitioner had no knowledge of its existence. The officers arrested Diggs for violating her probation and Bruton for violating his parole.

A preliminary hearing was held on Petitioner's alleged violation of parole. Petitioner was represented by counsel during the hearing. The hearing officer found probable cause existed to believe that Petitioner had violated his parole, and a revocation hearing was held. Following the revocation hearing, the Parole Board revoked Petitioner's parole and ordered him to be incarcerated.

In November 2000, Petitioner filed a petition for a writ of mandamus in the Delaware Superior Court challenging the Parole Board's decision. Petitioner alleged that the probation officers violated his Fourth Amendment rights by entering the house, searching the house and arresting him. Petitioner also contended that his due process rights were violated, because he was not allowed to present evidence that Ms. Diggs told the officers that the drugs and drug paraphernalia belonged to her. The Delaware Superior Court dismissed the petition holding that mandamus jurisdiction did not exist to review the Parole Board's decision, and Petitioner appealed.

On appeal, the Delaware Supreme Court affirmed the Superior Court's decision, but stated different grounds for its decision.

Relying on Pennsylvania Board of Probation and Parole v. Scott, 534 U.S. 357, 363 (1998), the Delaware Supreme Court concluded that Petitioner could not establish a Fourth Amendment claim based on the probation officers' entry and search of his premises and the exclusionary rule did not apply to parole revocation hearings. In addition, the Delaware Supreme Court concluded that Petitioner's due process rights were not violated when Petitioner requested to have three witnesses, one of whom was Ms. Diggs, testify that the contraband belonged to Ms. Diggs. According to the Delaware Supreme Court, Petitioner "offered this testimony both at the preliminary hearing and at the parole revocation hearing and . . . the mere presence of the drug paraphernalia in [Petitioner's] residence was sufficient to establish a parole violation." Bruton, No. 12, 2001, order at ¶ 6.

In his current Petition for federal habeas relief, Petitioner raises the same claims that he made before the state courts in his mandamus action, i.e. a violation of his Fourth Amendment rights based on the probation officers' entry and search of Petitioner's home and his arrest; and a violation of his due process rights based on the Parole Board's decision to disallow the testimony of certain witnesses for Petitioner. Because Petitioner's claims were presented to the Delaware Supreme Court, he has exhausted his state remedies. Accordingly, the Court will proceed to the merits of Petitioner's claims.

STANDARD OF REVIEW

As amended by the Antiterrorism and Effective Death Penalty Act of 1996 ("AEDPA"), 28 U.S.C. § 2254(d) precludes a district court from granting a habeas petition with respect to any claim that was adjudicated on the merits in a State court proceeding, unless the previous adjudication of the claim (1) "resulted in a decision that was contrary to, or involved an unreasonable application of clearly established Federal Law, as determined by the Supreme Court of the United States;" or (2) "resulted in a decision that was based on an unreasonable determination of the facts in light of the evidence presented in the State court proceeding." 28 U.S.C. § 2254 (d)(1)-(2). In applying this standard, a state court's factual determinations are presumed correct. 28 U.S.C. § 2254(e)(1). The petitioner bears the burden of rebutting the presumption of correctness by clear and convincing evidence. Id. The presumption of correctness applies to both explicit and implicit findings of fact. Campbell v. Vaughn, 209 F.3d 280, 286 (3d Cir. 2000), cert. denied, 531 U.S. 1084 (2001).

DISCUSSION

I. Petitioner's Fourth Amendment Claim

Petitioner contends that his Fourth Amendment rights were violated when probation officers entered and searched his home and subsequently arrested Petitioner. Specifically, Petitioner

contends that the officers lacked probable cause to search the house. Because the drugs and drug paraphernalia were the result of an allegedly illegal search, Petitioner contends that they should not have been admitted into evidence during his revocation hearing.²

In Pennsylvania Board of Probation and Parole v. Scott, the United States Supreme Court held that "the federal exclusionary rule does not bar the introduction at parole revocation hearings of evidence seized in violation of parolees' Fourth Amendment rights." 524 U.S. at 363. Because the United States Supreme Court has spoken directly on this issue and the Delaware Supreme Court reasonably adhered to and applied the Supreme Court's decision in light of the facts of the case before it, the Court concludes that the Delaware Superior Court's decision was not contrary to clearly established federal law or based on an unreasonable application of the facts. Accordingly, the Court concludes that Petitioner is not entitled to relief on his Fourth Amendment claim.

² The Court observes that Petitioner disputes several factual contentions offered by Defendant, including Defendant's assertion that Ms. Diggs was arrested for violating her probation. (D.I. 14). However, these factual allegations were accepted by the Delaware Supreme Court, and Petitioner has not demonstrated by clear and convincing evidence that the court's factual determinations were erroneous. Accordingly, the presumption of correctness applies to the Delaware Supreme Court's factual findings.

II. Due Process Claim

Petitioner next contends that his due process rights were violated, because he was precluded from presenting the testimony of three witnesses at his preliminary hearing and his revocation hearing. These witnesses were going to testify that the drugs uncovered at Petitioner's residence belonged to Ms. Diggs.

A parolee is entitled to present witnesses and documentary evidence; however, this right is not absolute. Burton v. Delaware State Board of Parole, Civ. Act. No. 97-359, mem. op. at 8 (D. Del. Mar. 15, 2002) (analogizing to the Sixth Amendment right of compulsory process) (citing Morrissey v. Brewer, 408 U.S. 471, 486). To establish that Petitioner's rights were violated, he must show that "there is a reasonable likelihood that the testimony could have affected the judgment of the trier of fact." Id. (citing United States v. Cruz-Jimenez, 977 F.2d 95, 100 (3d Cir. 1992) and United States v. Valenzuela-Bernal, 458 U.S. 858, 867 (1982)).

In its decision, the Delaware Supreme Court applied the principles of the Supreme Court's decision in Morrissey. The court recognized that Petitioner offered the same testimony as his witnesses in both his preliminary hearing and the revocation hearing. As such, the hearing officer and the Parole Board were well aware of Petitioner's contention that the drugs and drug paraphernalia belonged to Ms. Diggs, and additional testimony on

this point would have been cumulative. After reviewing the Delaware Supreme Court's decision in light of the AEDPA standard of review, the Court concludes that the decision was based on a reasonable application of the facts and clearly established federal law. Accordingly, the Court concludes that Petitioner is not entitled to relief on his due process claim.

III. Certificate of Appealability

After its review of Petitioner's claims, the Court must determine whether a certificate of appealability should issue. See Third Circuit Local Appellate Rule 22.2. The Court may issue a certificate of appealability only if Petitioner "has made a substantial showing of the denial of a constitutional right." 28 U.S.C. § 2253(c)(2). Under this standard, Petitioner must "demonstrate that reasonable jurists would find the district court's assessment of the constitutional claims debatable or wrong." Slack v. McDaniel, 529 U.S. 473, 484 (2000).

In this case, the Court has concluded that Petitioner is not entitled to federal habeas relief. The Court is persuaded that reasonable jurists would not debate the correctness of its assessments. Because the Court concludes that Petitioner has failed to make a substantial showing of the denial of a constitutional right, the Court declines to issue a certificate of appealability.

CONCLUSION

For the reasons discussed, the Court will dismiss the Petition Under 28 U.S.C. § 2254 for Writ of Habeas Corpus by a Person in State Custody filed by Petitioner Raymond L. Bruton and deny the Writ of Habeas Corpus sought by Petitioner. In addition, the Court will not issue a certificate of appealability.

An appropriate Order will be entered.

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FOR THE DISTRICT OF DELAWARE

RAYMOND L. BRUTON, :
 :
 Petitioner, :
 v. : **CONSOLIDATED**
 :
 THOMAS CARROLL, Warden, : Civil Action No. 01-583-JJF
 :
 Respondent. :

O R D E R

At Wilmington, this 24th day of January 2003, for the reasons set forth in the Memorandum Opinion issued this date;

IT IS HEREBY ORDERED that:

1. Petitioner Raymond L. Bruton's Petition Under 28 U.S.C. § 2254 for Writ of Habeas Corpus by a Person in State Custody (D.I. 1) is DISMISSED and the Writ Of Habeas Corpus is DENIED.
2. The Court declines to issue a certificate of appealability under 28 U.S.C. § 2253(c) (2).

JOSEPH J. FARNAN, JR.
UNITED STATES DISTRICT JUDGE