

13-7211 JENNINGS V. STEPHENS

DECISION BELOW: 537 Fed.Appx. 326

LOWER COURT CASE NUMBER: 12-70018

QUESTION PRESENTED:

1. Did the Fifth Circuit err in reversing the district court's grant of habeas corpus relief based on ineffective assistance of counsel at the punishment stage of a death penalty trial by deferring to a state court prejudice determination that was contrary to or involved an unreasonable application of clearly established Supreme Court precedent?
2. Did the Fifth Circuit err in holding that the state court reasonably determined that trial counsel made a sound strategic decision not to present any evidence of petitioner's disadvantaged background in a capital case where, in its absence, the jury was deprived of meaningful mitigating evidence that could have resulted in a life sentence?
3. Did the Fifth Circuit err in holding that the federal doctrine of waiver precludes a federal habeas court from considering an argument made initially in a footnote in a state court brief that was not waived under state law?
4. Did the Fifth Circuit err in holding that a federal habeas petitioner who prevailed in the district court on an ineffective assistance of counsel claim must file a separate notice of appeal and motion for a certificate of appealability to raise an allegation of deficient performance that the district court rejected even though the Fifth Circuit acquired jurisdiction over the entire claim as a result of the respondent's appeal?

LIMITED TO QUESTION 4 PRESENTED BY THE PETITION.

CERT. GRANTED 3/24/2014