

MELVIN B. LAGASSE, JR., PETITIONER, APPELLANT, v. PAUL K. VESTAL,
JR., et al., RESPONDENTS, APPELLEES.

No. 81-1587

UNITED STATES COURT OF APPEALS, FIRST CIRCUIT

671 F.2d 668; 1982 U.S. App. LEXIS 21359

January 7, 1982, Argued
March 1, 1982, Decided

PRIOR HISTORY: [**1]

APPEAL FROM THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF MAINE

[HON. EDWARD T. GIGNOUX, U.S. District Judge]

CASE SUMMARY:

PROCEDURAL POSTURE: Appellant challenged a judgment from the United States District Court for the District of Maine, which denied appellant's petition for habeas corpus relief following his murder conviction.

OVERVIEW: Appellant was convicted of murder, his conviction was affirmed on appeal, and he thereafter filed a petition for a writ of habeas corpus. The district court denied appellant's petition and he challenged the denial. Appellant contended that he was entitled to habeas corpus relief because the trial court improperly excluded evidence of the victim's conduct as proof of the victim's propensity for violence and thus denied him a fair trial. The court affirmed the district court's judgment. The court held that appellant was not entitled to habeas corpus relief because he merely alleged an evidentiary error and not a constitutional error, as was generally required for habeas corpus relief. Additionally, the court held that the trial court properly excluded evidence of the victim's conduct in accordance with Maine R. Evid. 404(a), where such evidence was not admissible. Further, the court reasoned that appellant was afforded a fair trial.

OUTCOME: The court affirmed the district court's judgment denying appellant's request for habeas corpus relief in relation to his murder conviction.

CORE TERMS: fair trial, violent, writ of habeas corpus, constitutional right, self-defense, reasonably believed, proffered testimony, highly prejudicial, use deadly force, admissible

LexisNexis (TM) HEADNOTES - Core Concepts:

Criminal Law & Procedure > Evidence > Admission, Exclusion & Preservation

[HN1] The question of admissibility of evidence is usually one of state law and procedure which does not implicate federal constitutional issues.

Criminal Law & Procedure > Habeas Corpus > Habeas Corpus Procedure

[HN2] Habeas relief is available only to correct constitutional wrongs, not mere evidentiary errors. Where a trial court ruling does not impinge upon any specific constitutional right, it will only provide the basis for issuing a writ of habeas corpus if it is so prejudicial that it renders a fair trial impossible.

Criminal Law & Procedure > Evidence > Impeachment Evidence > Evidence of Character, Custom & Habit

[HN3] Maine R. Evid. 404 chose to exclude evidence of the victim's violent character, an exception to the general rule against the admissibility of character evidence because such evidence has slight probative value and is likely to be highly prejudicial, so as to divert attention from what actually occurred.

COUNSEL:

Charles E. Chase, Medford, Mass., by appointment of the Court, for appellant.

Linda Sibery Crawford, Asst. Atty. Gen., Augusta, Me., with whom Charles K. Leadbetter, Asst. Atty. Gen., Crim. Div., Appellate Section, Augusta, Me., on brief, for appellees.

JUDGES:

Before COFFIN, Chief Judge, TIMBERS, Senior Circuit Judge, n* BREYER, Circuit Judge.

* Of the Second Circuit, sitting by designation.

OPINIONBY:

COFFIN

OPINION:

[*669]

Appellant was convicted of murder after a jury trial in Superior Court, Androscoggin County, Maine. On appeal to the Supreme Judicial Court of Maine, he argued unsuccessfully that the trial court's exclusion of testimony of the decedent's violent conduct toward his wife while under the influence of alcohol seriously undermined his theory of self-defense, and thereby violated his constitutional right to a fair trial. *State v. Lagasse*, 410 A.2d 537, 542 (Me.1980). Appellant then filed a petition for a writ of habeas corpus in federal district court. The district judge summarily rejected appellant's constitutional [**2] contention and subsequently denied his request for a certificate of probable cause, finding that "the appeal is not taken in good faith." This court granted the certificate, but we now affirm the district court's order dismissing the habeas petition.

The sole ground asserted by appellant in support of his petition is that the trial court's exclusion, under Maine R.Evid. 404(a), of evidence of the victim's conduct as proof of his propensity for violence denied him a fair trial. [HN1] The question of admissibility of evidence is usually one of state law and procedure which does not implicate federal constitutional issues. Moreover, it is well established that [HN2] habeas relief is available only to correct constitutional wrongs, not mere evidentiary errors. Where, as here, a trial court ruling does not impinge upon any specific constitutional right, it will only provide the basis for issuing a writ of habeas corpus if it is so prejudicial that it renders a fair trial impossible. See generally *Spencer v. Texas*, 385 U.S. 554, 562-65, 87 S. Ct. 648, 652-54, 17 L. Ed. 2d 606 (1967); *Lisenba v. California*, 314 U.S. 219, 228-29, 62 S. Ct. 280, 286, 86 L. Ed. 166 (1941); [**3] *Salemme v. Ristaino*, 587 F.2d 81, 85-86 (1st Cir. 1978); *Manning v. Rose*, 507 F.2d 889, 892-93 (6th Cir. 1974).

At trial, appellant sought to prove that he acted in self-defense, in response to the victim's aggression and the victim's alleged attempt to knife appellant. Under Maine law, the issue for the jury was whether appellant reasonably believed it was necessary to use deadly force. Although evidence of the victim's violent character would have been admissible under federal law, see Fed.R.Evid. 404(a)(2), the drafters of [HN3] Maine R.Evid. 404 chose to exclude this exception to the general rule against the admissibility of character evidence because such evidence "has slight probative value and is likely to be highly prejudicial, so as to divert attention from what actually occurred." Maine R.Evid. 404, Advisers' Note; see R. Field & P. Murray, *Maine Evidence* 67-68 (1976).

Here, where appellant did not know of the decedent's violent character, it is difficult to see how the proffered testimony was relevant in assessing whether appellant feared that he was about to be knifed or whether he reasonably believed that it was necessary to use deadly force. Indeed, [**4] had appellant known of the victim's violent character, the testimony would have been admissible "for the purpose of showing his reasonable apprehension of immediate danger." Maine R.Evid. 404, Advisers' Note. We therefore conclude that in this case, where appellant was unaware of the victim's violent character, the exclusion of the proffered testimony was a rational means of barring marginally relevant but highly prejudicial evidence. Appellant's right to a fair trial was not violated.

Affirmed.