

Knox cont. from p. 15

- The Monster of Perugia: The Framing of Amanda Knox, by Mark Waterbury (2011)
- The Amanda Knox Story: A Murder in Perugia, by Kimberly Brown and Vook (2011)
- Injustice in Perugia: a Book Detailing the Wrongful Conviction of Amanda Knox and Raffaele Sollecito, by Bruce Fisher (2011)
- Take me with you: Talks with Amanda Knox in prison, by Rocco Girlanda (2010)
- Walking with Amanda, by Florisbela Inocencio de Jesus (2010)
- The Study Abroad Murder: Trial of the Century, by Will Savive (2011)
- Amanda Knox And The Perugia Murder, by Giacomo Brunoro, Jacopo Pezzan, and Yacine May (2011)
- University of Strangers, by Bob Pfeifer (2011)
- Darkness Descending: The Murder of Meredith Kercher, by Graham Johnson (2010)
- Angel Face: The True Story of Student Killer Amanda Knox, by Barbie Latza Nadeau (2010)
- The Murder of Meredith Kercher, by Gary C. King (2010)
- True Crime: The Amanda Knox Trial and the Murder of Meredith Kercher, by Elizabeth J. Hull (2011)
- Amanda Knox and the Perugia Murder: Italian Crimes, by Jacopo Pezzan, Giacomo Brunoro, Yacine May, and Max Dupre' (2011)
- Amanda Knox: A Verdict Overturned, by Luccius Yarminkus (2011)
- Death in Perugia: The definitive account of the killing of British student Meredith Kercher, by John Follain (2010)
- Finding Justice in Perugia: a follow-up to Injustice in Perugia: a book detailing the wrongful conviction of Amanda Knox and Raffaele Sollecito, by Bruce Fisher (2011)

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U.S. Sup. Ct. Limits Evidentiary Hearings In Federal Habeas Cases Involving State Prisoners

Evidentiary hearings are only granted in 1 out of 250 federal court *habeas corpus* petitions filed by a state prisoner in a non-capital case, and in about 1 out of 10 capital cases. However, that number will be reduced as a result of the U.S. Supreme Court's ruling on April 4, 2011 in the case of *Cullen, Acting Warden v. Pinholster* (No. 09-1088). The Court ruled that federal District Courts must accept the state court's findings of fact in evaluating a state prisoner's federal *habeas corpus* petition claiming an error under 28 USC §2254(d)(1). Section 2254(d)(1) applies to a claim denied on its merits by the state court. It is irrelevant if evidence can be disclosed during an evidentiary hearing in a federal District Court that proves a petitioner's claim and justifies granting the petition.

Scott Lynn Pinholster was convicted of first-degree murder for causing two deaths during a Tarzana, California home invasion in 1982. The prosecution sought the death penalty and during the sentencing hearing eight witnesses testified about Pinholster's bad character. The only mitigating evidence introduced by Pinholster's lawyers was his mother's testimony about his troubled childhood and that he was "a perfect gentleman at home."

After Pinholster's direct appeal was denied, his post-conviction lawyer investigated his case and discovered significant mitigating evidence. Pinholster's state *habeas* petition included a claim that his trial lawyers were ineffective for failing to investigate his case for mitigating evidence that could have reasonably resulted in the jury recommending a life sentence.

The superior court denied Pinholster's petition without holding an evidentiary hearing and the California Supreme Court affirmed the denial, stating his ineffective assistance of counsel claim "is without merit."

Pinholster filed a timely federal *habeas corpus* petition in April 1997 that included his state claim that his lawyers were ineffective for failing to investigate and introduce mitigating evidence during his sentencing hearing. His petition included evidence the California Supreme Court had not considered in denying his ineffective assistance of counsel claim, so his federal petition was held in abeyance while the California court

considered the new evidence. After the California Supreme Court again denied his petition, Pinholster filed an amended federal petition in November 1997.

The District Court judge granted an evidentiary hearing during which Pinholster introduced the mitigating evidence discovered after his sentencing. After considering that evidence the judge determined the California Supreme Court's decision that Pinholster's trial lawyers were not ineffective "was contrary to, or involved an unreasonable application of, clearly established Federal law" under §2254(d)(1)." The judge granted Pinholster's petition and remanded his case for a new sentencing hearing. The State of California appealed to the Ninth Circuit Court of Appeal, arguing that the District Court was required to only consider the facts that had been available to the California Supreme Court, and not any new evidence introduced during the evidentiary hearing.

In 2008 a 3-judge panel affirmed the District Court's ruling. (*Pinholster v. Ayers*, 525 F. 3d 742 (2008)). The State then sought *en banc* review of the panel's ruling. The Ninth Circuit *en banc* affirmed 8 to 3 the District Court's ruling.

The State filed a writ of *certiorari* with the U.S. Supreme Court, which accepted the case. The Court reversed the Ninth Circuit, ruling that a District Court judge is limited to evaluating a state prisoner's claim in a federal *habeas* petition based on the same evidence that the state court relied on to deny that claim based on its merits. The Court also ruled that the failure of Pinholster's trial counsel to investigate and present mitigating evidence was based on reasonable tactical decisions under the circumstances. Consequently, the Court decided the California Supreme Court had not unreasonably applied clearly established federal law to Pinholster's penalty-phase ineffective-assistance-of-counsel claim. The Court's ruling effectively reinstated Pinholster's death sentence.

The Supreme Court's ruling relied heavily on their rejection of the Ninth Circuit's determination that Pinholster's trial lawyers had a "constitutional duty to investigate," and that it was "*prima facie* ineffective assistance for counsel to 'abandon their investigation of [the] petitioner's background after having acquired only rudimentary knowledge of his history from a narrow set of sources.'"

Sources:

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Court Tosses Death Sentence in Tarzana Double Murder, *Metropolitan News-Enterprise*, December 10, 2009

