NEW YORK LAW SCHOOL

NYLS Law Review

Volume 36 | Issue 1 Article 36

January 1991

Adams v. Texas

Zolton Ferency
Michigan State University

BOOK REVIEW

ADAMS V. TEXAS. By Randall D. Adams, William Hoffer & Marilyn M. Hoffer. New York, St. Martin's Press, 1991. Pp. 347. $19.95

*Reviewed by Zolton Ferency**

Nearly everyone has had the nightmare: Out of nowhere, you find yourself accused of a crime you did not commit. Despite your innocence, over your protestations, in the face of evidence in your favor, you are convicted—and sentenced to die, horribly.[1]

Adams v. Texas[2] is the story of Randall Adams's twelve-year entanglement in the criminal-justice apparatus, living just such a nightmare. This moving story was presented in *The Thin Blue Line*,[3] a highly regarded film that played a pivotal role in Adams's ultimate release. One of the many ironies emerging from this series of unnerving frustrations is that the title of the film was taken from the passionate closing argument delivered to the jury by the prosecution:

> We are a nation of laws, a country of laws, a state of laws. . . . Our laws in turn are enforced and protected by that *thin blue line* of men and women who daily risk their lives by walking into the jaws of death, sometimes to walk back out again and sometimes to perish.[4]

The tragic facts that gave rise to Adams's prosecution are uncomplicated. Officer Robert Wood and his partner Officer Teresa Turko made a routine traffic stop in West Dallas, Texas. As Wood approached the stopped car merely to warn the driver to turn on his headlights, the driver rolled down the window, fired six shots into Wood, and sped off. Officer Turko radioed in the emergency, and backup teams arrived in just over two minutes. During her initial questioning at the scene, Officer Turko could say simply that she believed that there was only one person in the car, who seemed to be wearing a coat with a furry upturned collar,

---

* Professor of Law, Michigan State University

1. RANDALL D. ADAMS ET AL., ADAMS V. TEXAS, at jacket (1991).

2. *Id.*

3. THE THIN BLUE LINE (Miramax Films 1988).

4. ADAMS ET AL., *supra* note 1, at 126 (emphasis added).

that the car was a blue Vega, and that she thought the first two letters of the license plate were "HC."[5] After nearly a month of fruitless investigation, scant and conflicting witness testimony, and intense public pressure to find the killer, the police arrested Adams for the murder of Officer Wood.[6]

Beginning with those events, *Adams v. Texas* becomes an "as-told-to" type of work written to appeal to a mass readership. The tribulations Adams experienced through his long, embittering struggle for justice make fascinating reading. Surely, for those who are unfamiliar with the day-to-day application of criminal procedure, many of Adams's experiences, particularly in the early stages of the investigative and charging processes, will seem incredible. But, it is crucial to realize that what happened to Adams is repeated daily throughout the United States under less celebrated circumstances.[7]

Important lessons can be learned from Adams's journey through the criminal-law labyrinth. Adams was arrested on December 21, 1976,[8] a time when the constitutional-law reforms worked by the United States Supreme Court, under the stewardship of Chief Justice Earl Warren, were seemingly well established.[9] But eight years earlier, during the 1968 presidential election campaign, Richard Nixon pledged that, if elected, he would appoint "strict constructionists"[10] to the Supreme Court and thus put an end to the era of *coddling criminals* and of *handcuffing the police*.[11] As far as Randall Adams was concerned, the so-called "reforms" imposed by the Warren Court, which Nixon vowed to undo, were never fully

---

5. *Id.* at 9-11. The automobile used in the shooting was a Mercury Comet and not a Vega, as initially reported. *See id.* at 21.

6. *See id.* at 12-18.

7. *See generally* Hugo A. Bedau & Michael L. Radelet, *Miscarriages of Justice in Potentially Capital Cases*, 40 STAN. L. REV. 21 (1987) (describing 350 cases in which individuals were convicted of capital or potentially capital crimes that they did not commit; many of the individuals were sentenced to death, and 23 were actually executed).

8. For an account of Adams's arrest and interrogation, see ADAMS ET AL., *supra* note 1, at 16-32.

9. *See generally* A. Kenneth Pye, *The Warren Court and Criminal Procedure*, *in* THE WARREN COURT: A CRITICAL ANALYSIS 58 (Richard H. Sayler et al. eds., 1980) (arguing that the Warren Court accomplished unalterable changes in America's criminal justice system by establishing, among other things, the right to counsel, the exclusionary rule, and the *Miranda* rights).

10. JAMES F. SIMON, IN HIS OWN IMAGE: THE SUPREME COURT IN RICHARD NIXON'S AMERICA 5 (1973).

11. *See id.* at 7. Simon quotes Nixon as saying: "From the point of view of the criminal forces . . . the cumulative impact of these [Supreme Court] decisions has been to set free patently guilty individuals on the basis of legal technicalities." *Id.*

achieved. Because law enforcement authorities throughout the country were regularly evading the mandates of the Warren Court, one should not attribute Adams's hellish experience, from his arrest to release, to some Texas-style justice.[12]

Adams's story serves as a striking illustration of this ability to circumvent the Warren Court safeguards. In Adams's case, for example, a signed document obtained by Dallas County criminal investigators—a "statement" as Adams characterized it—immediately was labelled a "confession" by the police, the news media, and, eventually, the trial judge.[13] Adams does not make clear whether the authorities correctly administered to him his *Miranda*[14] rights. One would expect Adams to remember the circumstances under which his rights were explained to him, if in fact they were. His recollection, he claims, is simply that there were warnings that were "mumbo-jumbo" to him, the details of which he could not remember.[15] It does appear, however, that Adams was arrested in mid-morning and promptly arraigned, at which time a Justice of the Peace "reminded [him] of [his] rights."[16]

What is missing in all of this, of course, is the disposition of Adams's fundamental right to counsel.[17] There is no mention in the book of whether Adams ever requested or was offered counsel. Likewise, there is no discussion of a pretrial suppression hearing, which would have illuminated the circumstances surrounding the extracting of a potentially damaging

---

12. *See, e.g.*, Robert Blau & David Jackson, *Police Study Turns Up Heat on Brutality*, CHI. TRIB., Feb. 9, 1992, at 1 (recounting a recent report evidencing nearly two decades of systematic violation of the constitutional rights of suspects by the Chicago south side police department); Stephen J. Lynton, *U.S. Judge Rules D.C. Police Detain Suspects Illegally: Judge Calls Police Detention Illegal*, WASH. POST, May 11, 1978, at B1 (stating that "District of Columbia police routinely detain thousands of criminal suspects for unconstitutionally long periods of time"); Victoria R. Bowles, UPI, Mar. 23, 1983, *available in* LEXIS, Nexis Library, Archiv File (relating the story of New Orleans police officers charged with violating constitutional rights of suspects); Mark A. Dupuis, *Court Orders New Trial in Bridgeport Murder Case*, UPI, Dec. 15, 1980, *available in* LEXIS, Nexis Library, Archiv File (discussing the unconstitutionality of a custodial interrogation of a criminal suspect in Connecticut in 1975); *Former Nixon Honor Guard Yelled for Help During Stay in Jail*, UPI, Nov. 18, 1980, *available in* LEXIS, Nexis Library, Archiv File (discussing constitutional violations of a suspect who was "straightjacketed and hanged from his heals" by police in an Oklahoma jail in 1979); Barry May, REUTERS, Aug. 13, 1980, *available in* LEXIS, Nexis Library, Archiv File (discussing charges against Philadelphia police officers for severe and widespread deprivation of suspects' constitutional rights).

13. *See* ADAMS ET AL., *supra* note 1, at 81, 85.

14. Miranda v. Arizona, 384 U.S. 436 (1966).

15. ADAMS ET AL., *supra* note 1, at 20.

16. *Id.*

17. *See* U.S. CONST. amend. VI; Gideon v. Wainwright, 372 U.S. 335 (1963).

signed statement from him. The authors do tell us, however, that Dennis L. White, a local attorney, was retained by Adams's family. White initially told Adams's mother that "it doesn't look good. . . . He's been in jail almost a week already."[18] White, whose performance became the basis for Adams's subsequent ineffectiveness-of-counsel plea, was nonetheless prescient in his early observations.[19] It was during the early days of the investigation and the preparation of charges that the foundation of the case against Adams was entrenched firmly.

Dallas law-enforcement authorities appear to have investigated and prosecuted the case with one thought in mind: find the killer of Officer Wood and electrocute him. The Dallas County District Attorney at the time was Henry Wade, the named party in the landmark abortion case, *Roe v. Wade*.[20] Wade had been re-elected regularly since 1950, rarely facing serious opposition at the polls. His first assistant, Douglas D. "Mad Dog" Mulder, prosecuted the case. Mulder had never lost a criminal case and, it was said, wanted to succeed Henry Wade as District Attorney.[21]

The only two suspects to emerge were Adams and David Ray Harris, a sixteen-year-old juvenile delinquent with a criminal record. Adams insisted with considerable justification that the police were more concerned with executing *someone* for the killing, than they were in finding the murderer.[22] That attitude, Adams claims, pushed the police toward prosecuting Adams rather than the true killer, Harris. Harris was willing and anxious to testify as an eyewitness against Adams and to swear to a completely false, police-concocted version of the operative facts. Adams, on the other hand, insisted throughout the proceedings that he knew nothing about the murder. It is also noteworthy that David Ray Harris—a native of Vidor, Texas, in contrast to Adams, a "drifter" from Ohio—was too young at the time to be executed in Texas.[23]

Defense Counsel Dennis L. White was elated to learn that the prosecution intended to rely on Harris's testimony. White was confident that he could destroy Harris's credibility by introducing into evidence Harris's previous criminal record.[24] "They don't have a case," White

---

18. ADAMS ET AL., *supra* note 1, at 36.

19. *See id.* at 38-39.

20. 410 U.S. 113 (1973).

21. *See* ADAMS ET AL., *supra* note 1, at 43.

22. *Id.* at 12-15 (emphasis added).

23. *See id.* at 47, 58-59. In Texas, the death penalty may not be imposed on a person who was under 17 years of age at the time of the offense. *See* TEX. PENAL CODE ANN. § 8.07(d) (West 1992).

24. *See* ADAMS ET AL., *supra* note 1, at 55. Harris had previously been adjudged a juvenile delinquent after committing a series of offenses, including breaking and entering,

exclaimed to Adams.[25] But Trial Judge Donald J. Metcalfe soon shattered White's optimism with a series of adverse rulings excluding testimony and records vital to the defense.[26]

These rulings demonstrate Judge Metcalfe's flawed interpretation and application of *Brady v. Maryland*[27]—the landmark Warren Court ruling which considerably extended the criminal defendant's right to discovery of exculpatory material—and underscore the huge gap that often exists between a court ruling and its actual imposition. Ultimately, the putative failure of Defense Counsel White to press more firmly on the issue of the prosecution's refusal to conform to *Brady* became the principal basis for the ineffectiveness-of-counsel claim on appeal.[28] At the close of the trial, Adams was convicted and sentenced to death.[29]

After substitution of defense counsel and a series of post-conviction appeals, Adams finally won a ruling from the United States Supreme Court.[30] The decision struck down a section of the Texas Penal Code that required prospective jurors to swear that the mandatory death penalty would not affect the jurors' efforts to resolve issues of fact.[31] To Adams's chagrin, however, the Supreme Court's decision did not specifically reverse his conviction.[32] In order to avoid the necessity and risk of a new trial, the Dallas prosecuting authorities prevailed upon the Texas Board of Pardons and Paroles and the Governor of Texas to commute Adams's sentence to life imprisonment.[33] Adams was therefore removed from death row and placed in the general prison population[34] of one of the country's worst prison systems.[35] Adams's only hope for freedom rested on a petition for a new trial.

---

and car theft. *Id.* at 51-52.

25. *Id.* at 56.

26. *See id.* at 57-58.

27. 373 U.S. 83 (1963).

28. ADAMS ET AL., *supra* note 1, at 222, 320.

29. *Id.* at 118, 126.

30. *See* Adams v. Texas, 448 U.S. 38 (1980); *See also* ADAMS ET AL., *supra* note 1, at 182.

31. *See Adams*, 448 U.S. at 49 (invalidating § 12.31(b) of the Texas Penal Code).

32. Adams's trial was held in two stages: a culpability phase and a penalty phase. *Id.* at 40. The Court's decision related only to the constitutionality of the penalty phase. *Id.* at 51. The holding, therefore, did not affect the validity of the underlying conviction.

33. ADAMS ET AL., *supra* note 1, at 184-85.

34. *See id.* at 178-86.

35. J. Michael Kennedy, *Too Many Convicts, Too Few Beds; You Have to Get Up Early to Get into Prison in Texas*, L.A. TIMES, Apr. 16, 1987, at 1.

Defense counsel filed a motion for a new trial. At the hearing, defense counsel reluctantly asserted the question of White's ineffective assistance of counsel, along with other critical issues. White—who was so disillusioned by the miscarriage of justice in the *Adams* case that he never again tried a felony matter[36]—testified at the hearing, "[i]n retrospect, my trusting Mr. Mulder to abide by the *Brady* motion and provide various statements . . . was foolish. But at the time, I thought he was going to abide by the rulings of the court."[37]

In fairness, however, White's performance as defense counsel was certainly not ineffective when measured against the generally accepted criteria, which, at the time, was that of "reasonably effective assistance."[38] Later, the Supreme Court, in *Strickland v. Washington*,[39] reiterated the general rule in somewhat more specific terms:

> [A] court deciding an actual ineffectiveness claim must judge the reasonableness of counsel's challenged conduct on the facts of the particular case, viewed as of the time of counsel's conduct. A convicted defendant making a claim of ineffective assistance must identify the acts or omissions of counsel that are alleged not to have been the result of reasonable professional judgment. The court must then determine whether, in the light of all the circumstances, the identified acts or omissions were outside the wide range of professionally competent assistance.[40]

At the close of the hearing, the newly-assigned magistrate, Judge Larry Baraka, ignored the ineffectiveness-of-counsel claim and ruled that Adams was entitled to a new trial. The ruling was based on prosecutorial misconduct in the suppression of evidence, the perjury of witnesses, and the denial of the right to confront witnesses.[41] In announcing his decision from the bench, Judge Baraka said,

> I resent the allegations that in the state of Texas and particularly Dallas, justice does not exist. It definitely does exist. . . . Systems are not the problem; it's the people. It's the people that are placed in those systems that make the difference. . . . I'll

---

36. ADAMS ET AL., *supra* note 1, at 261-62.

37. *Id.* at 315-16.

38. MacKenna v. Ellis, 280 F.2d 592, 599 (5th Cir. 1960), *cert. denied*, 368 U.S. 877 (1961).

39. 466 U.S. 668 (1984).

40. *Id.* at 690.

41. *See* ADAMS ET AL., *supra* note 1, at 323.

> submit to you in this instance even with Mr. Adams, whether he was rightly or wrongly incarcerated, he's getting his process today, even if it takes ten or twelve years. There are some societies that not only he wouldn't be here this very day to talk about it—in summary, he would have been executed.[42]

The prosecution did not appeal Judge Baraka's decision. In the face of the evidence that had surfaced during the preceding twelve years, including a thinly-veiled declaration by Harris that he was the murderer,[43] Dallas District Attorney John Vance requested the dismissal of the indictment against Adams.[44] Vance stated that he had "determined that there is not sufficient credible evidence to warrant the retrial of Randall Dale Adams."[45] Adams was free at last.

Randall Adams's twelve-year struggle for justice and freedom exemplifies the troubling irony in the administration of the criminal law since the end of the Warren-Court era. The sometimes controversial decisions of the Warren Court were designed to strengthen constitutional guarantees throughout the criminal-law process regarding, for example: search and seizure, confessions, right to counsel, and prison conditions.[46] But while the Adams case underscores the ability of local law-enforcement authorities across the country to find ways to minimize, circumvent, and nullify the impact of these Supreme Court rulings, the current Court is actively removing these safeguards. The Rehnquist Court is modifying and even reversing many of these earlier rulings due to its belief in the "good faith" of local law enforcement authorities and the adequacy of the

---

42. *Id.*

43. *Id.* at 301-04.

44. *See id.* at 313-14, 342-44.

45. *Id.* at 344.

46. *See, e.g.*, Johnson v. Avery, 393 U.S. 483 (1969) (invalidating a state regulation prohibiting inmates from aiding other prisoners in preparing writs); Lee v. Washington, 390 U.S. 333 (1968) (invalidating a state regulation requiring racial segregation in prisons and jails); Miranda v. Arizona, 384 U.S. 436 (1966) (holding that statements obtained before a suspect is apprised of specific constitutional rights are inadmissible at trial); Escobedo v. Illinois, 378 U.S. 478 (1964) (holding that statements obtained before a suspect is afforded opportunity to consult with an attorney are inadmissible); Mapp v. Ohio, 367 U.S. 643 (1961) (holding that evidence acquired through illegal search and seizure is inadmissible); Reck v. Pate, 367 U.S. 433 (1961) (holding that statements of a suspect obtained after lengthy police interrogation are inadmissible at trial).

constitutional protections afforded by state courts.[47] Randall Dale Adams may have gained his freedom just in the nick of time.

Adams v. Texas is well written and worth reading, even by seasoned criminal defense lawyers. It is not designed to be a textbook or other legal reference, but it is a lucid and informative exposition of the power of government to subvert the fundamental founding principles of our nation whenever that power falls into corrupt hands. The book reaffirms the truism that civil liberties battles are never fully won, but have to be fought again and again.

47. *See, e.g.*, Coleman v. Thompson, 111 S. Ct. 2546 (1991) (limiting the reach of federal habeas corpus petitions); Illinois v. Rodriguez, 110 S. Ct. 2793 (1990) (permitting a warrantless search upon unauthorized third-party consent); Maryland v. Garrison, 480 U.S. 79 (1987) (admitting evidence seized on premises mistakenly searched by police who had a warrant to search adjoining premises); Oregon v. Elstad, 470 U.S. 298 (1985) (admitting subsequent voluntary statements when *Miranda* warnings were not administered); *see also Conservatives in Court: New Majority Throws Out Decades of Jurisprudence*, SEATTLE TIMES, June 29, 1991, at A15 ("Rarely has a Court eviscerated so many constitutional principles in so short a time.").