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NOTE: Where it is feasible, a syllabus (headnote) will be released, as is being done in connection with this case, at the time the opinion is issued. The syllabus constitutes no part of the opinion of the Court but has been prepared by the Reporter of Decisions for the convenience of the reader. See *United States* v. *Detroit Timber & Lumber Co.*, 200 U. S. 321, 337.

SUPREME COURT OF THE UNITED STATES

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RAMDASS *v.* ANGELONE, DIRECTOR, VIRGINIA DEPARTMENT OF CORRECTIONS

CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE FOURTH CIRCUIT

No. 99–7000. Argued April 18, 2000– Decided June 12, 2000

Petitioner Ramdass was sentenced to death in Virginia for the murder of Mohammed Kayani. Under Virginia law, a conviction does not become final until the jury returns a verdict and, some time thereafter, the judge enters a final judgment of conviction. At the time of the Kayani sentencing trial, a final judgment had been entered against Ramdass for an armed robbery at a Pizza Hut restaurant and a jury had found him guilty of an armed robbery at a Domino's Pizza restaurant, but no final judgment had been entered. The prosecutor argued future dangerousness at the Kayani sentencing trial, claiming that Ramdass would commit further violent crimes if released. The jury recommended death. After final judgment was entered on the Domino's conviction, the Kayani judge held a hearing to consider whether to impose the recommended sentence. Arguing for a life sentence, Ramdass claimed that his prior convictions made him ineligible for parole under Virginia's three-strikes law, which denies parole to a person convicted of three separate felony offenses of murder, rape, or armed robbery, which were not part of a common act, transaction, or scheme. The court sentenced Ramdass to death, and the Virginia Supreme Court affirmed. On remand from this Court, the Virginia Supreme Court again affirmed the sentence, declining to apply the holding of *Simmons* v. *South Carolina*, 512 U. S. 154, that a jury considering imposing death should be told if the defendant is parole ineligible under state law. The court concluded that Ramdass was not parole ineligible when the jury was considering his sentence because the Domino's crime, in which no final judgment had been entered, did not count as a conviction for purposes of the three-strikes law. Ultimately, Ramdass sought federal habeas relief. The District

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Court granted his petition, but the Court of Appeals reversed.

Held: The judgment is affirmed. Pp. 6–21.

187 F. 3d 396, affirmed.

JUSTICE KENNEDY, joined by THE CHIEF JUSTICE, JUSTICE SCALIA, and JUSTICE THOMAS, concluded that Ramdass was not entitled to a jury instruction on parole ineligibility under Virginia's three-strikes law. Pp. 6–21.

(a) Whether Ramdass may obtain relief under *Simmons* is governed by the habeas corpus statute, 28 U. S. C. §2254(d)(1), which forbids relief unless a state-court adjudication of a federal claim is contrary to, or an unreasonable application of, clearly established federal law as determined by this Court. The Virginia Supreme Court's ruling here was neither contrary to *Simmons* nor an unreasonable application of its rationale. Pp. 7–8.

(b) *Simmons* created a workable rule. The parole-ineligibility instruction is required only when, assuming the jury fixes a life sentence, the defendant is ineligible for parole under state law. The instruction was required in *Simmons* because it was legally accurate. However, that is not the case here, for the Virginia Supreme Court's authoritative determination is that Ramdass was not parole ineligible when the jury considered his sentence. Material differences exist between this case and *Simmons:* The *Simmons* defendant had conclusively established his parole ineligibility at the time of sentencing and Ramdass had not; a sentence had been imposed for the *Simmons* defendant's prior conviction and he pleaded guilty, while the Domino's case was tried to a jury and no sentence had been imposed; and the grounds for challenging a guilty plea in the *Simmons* defendant's State are limited. Ramdass' additional attempts to equate his case with *Simmons* do not refute the critical point that he was not parole ineligible as a matter of state law at the time of his sentencing trial. Pp. 8–11.

(c) Extending *Simmons* to cover situations where it looks like a defendant will turn out to be parole ineligible is neither necessary or workable, and the Virginia Supreme Court was not unreasonable in refusing to do so. Doing so would require courts to evaluate the probability of future events in cases where a three-strikes law is the issue. The States are entitled to some latitude in this field, for the admissibility of evidence at capital sentencing is an issue left to them, subject to federal requirements. Extending *Simmons* would also give rise to litigation on a peripheral point, since parole eligibility may be only indirectly related to the circumstances of the crime being considered and is of uncertain materiality. The State is entitled to some deference in determining the best reference point for making the ineligibility determination. Virginia's rule using judg-

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ment in the Domino's case to determine parole ineligibility is not arbitrary by virtue of Virginia's also allowing the prosecutor to introduce evidence of Ramdass' unadjudicated prior bad acts to show future dangerousness. Public opinion polls showing the likely effect of parole ineligibility on jury verdicts cast no doubt upon the State's rule. Ramdass' claim is based on the contention that it is inevitable that a judgment of conviction would be entered for his Domino's crime, but it is a well-established practice for Virginia courts to consider and grant post-trial motions to set aside jury verdicts. Ramdass' time to file such a motion in the Domino's case had not expired when the jury was deliberating the Kayani sentence. Ramdass complains that using the entry of judgment rather than the jury verdict to determine finality is arbitrary because the availability of post-judgment relief renders uncertain the judgment's finality and reliability. However, States may take different approaches, and a judgment is the usual measure of finality in the trial court. Ramdass' conduct in this litigation confirms the conclusion reached here. He did not indicate at trial that he thought he would never be paroled or mention the three-strikes law at trial, and it appears he did not argue that his parole ineligibility should have been determined based on the date of the Domino's verdict until the Virginia Supreme Court declared that another one of his convictions did not count as a strike. Pp. 11–20.

(d) State courts remain free to adopt rules that go beyond the Constitution's minimum requirements. In fact, Virginia allows a *Simmons* instruction even where future dangerousness is not at issue; and since it has also eliminated parole for capital defendants sentenced to life in prison, all capital defendants now receive the instruction. Pp. 20–21.

JUSTICE O'CONNOR agreed that Ramdass is not entitled to habeas relief. The standard of review applicable in federal habeas cases is narrower than that applicable on direct review. Whether a defendant is entitled to inform the jury that he is parole ineligible is ultimately a federal law question, but this Court looks to state law to determine the defendant's parole status. Under Virginia law, Ramdass was not parole ineligible. Were the entry of judgment a purely ministerial act under Virginia law, the facts in this case would have been materially indistinguishable from those in *Simmons* v. *South Carolina,* 512 U. S. 154. Such was not the case here, however, for, under Virginia law, a guilty verdict does not inevitably lead to the entry of a judgment order. Consequently, the Virginia Supreme Court's decision was neither contrary to, nor an unreasonable application of, *Simmons.* Pp. 1–4.

KENNEDY, J., announced the judgment of the Court and delivered

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an opinion, in which REHNQUIST, C. J., and SCALIA and THOMAS, JJ., joined. O'CONNOR, J., filed an opinion concurring in the judgment. STEVENS, J., filed a dissenting opinion, in which SOUTER, GINSBURG, and BREYER, JJ., joined.