

Michael Skakel new trial decision shows how New Jersey Supreme Court wrongly decided *State v. Miller*

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Yesterday, the Honorable Thomas Bishop, a sitting judge of the Superior Court of the State of Connecticut, issued a thoughtful, and comprehensive, 136 page opinion granting Kennedy cousin Michael Skakel a new trial on charges that he murdered Martha Moxley in 1975. In finding that Mr. Skakel's trial attorney had rendered constitutionally ineffective assistance to him sufficient to require a new trial, Judge Bishop offered these cogent observations:

The defense of a serious felony prosecution requires attention to detail, an energetic investigation and a coherent plan of defense capable executed. Trial counsel's failures in each of these areas of representation were significant and, ultimately, fatal to a constitutionally adequate defense. As a consequence of trial counsel's failures as stated, the state procured a judgment of conviction that lacks reliability. Although defense counsel's errors of judgment and execution are not the fault of the state, a defendant's constitutional right to adequate representation cannot be overshadowed by the inconvenience and financial and emotional cost of a new trial. To conclude otherwise would be to elevate expediency over the constitutional rights we cherish.

Compare this decision, with the opinion rendered by the New Jersey Supreme Court in *State v. Miller*, discussed in [a previous post on this blog](#), and sharply criticized [by other legal commentators](#). Michael Skakel, with all the resources available to him as a member of the Kennedy family, did not receive constitutionally effective assistance of counsel, while, according to the New Jersey Supreme Court, Terrence Miller, who met his attorney an hour before his trial, did. Judge Bishop's opinion in *Skakel* explaining what the right to constitutionally effective counsel means, underscores how wrong our New Jersey Supreme Court was in the *Miller* case.

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