

**United States Court of Appeals  
FOR THE EIGHTH CIRCUIT**

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No. 99-2017

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William Warren Helenbolt,	*	
	*	
Appellant,	*	Appeal from the United States
	*	District Court for the District
v.	*	of Minnesota.
	*	
Bert Mohs, Warden, State of Minnesota,*	*	[UNPUBLISHED]
	*	
Appellee.	*	

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Submitted: May 8, 2000

Filed: May 18, 2000

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Before WOLLMAN, Chief Judge, FAGG and MURPHY, Circuit Judges.

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PER CURIAM.

A state jury convicted William Warren Helenbolt of burglary and first degree murder in 1980 and his direct appeal was denied. See State v. Helenbolt, 334 N.W.2d 400 (Minn. 1983). In 1997, Helenbolt filed a 28 U.S.C. § 2254 habeas petition which was also denied. Helenbolt appeals, claiming he did not receive a fair trial. Helenbolt argues an instruction explaining that Helenbolt's accomplice was acquitted of second degree murder could have caused the jury to infer that Helenbolt must have committed the murder. We disagree. Because the jury could have drawn several different conclusions or no conclusion at all about the instruction given, we conclude the

instruction did not deprive Helenbolt of a fair trial. See Louisell v. Director of Iowa Dep't of Corrections, 178 F.3d 1019, 1022 (8th Cir. 1999) (jury instruction must create fundamental defect that results in complete miscarriage of justice or omission inconsistent with basic demands of fair trial to warrant habeas relief). We affirm.

A true copy.

Attest:

CLERK, U.S. COURT OF APPEALS, EIGHTH CIRCUIT.