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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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EVANS, ACTING WARDEN *v.* CHAVIS

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

No. 04–721. Argued November 9, 2005—Decided January 10, 2006

The Antiterrorism and Effective Death Penalty Act of 1996 (AEDPA) gives a state prisoner whose conviction has become final one year to seek federal habeas corpus relief, 28 U. S. C. §2244(d)(1)(A), but tolls this 1-year limitations period for the "time during which a properly filed application for State . . . collateral review . . . is pending," §2244(d)(2). Under California's collateral review scheme, the equivalent of a notice of appeal is timely if filed within a "reasonable time." In *Carey* v. *Saffold*, 536 U. S. 214, this Court held, *inter alia*, that (1) only a *timely* appeal tolls AEDPA's limitations period for the time between the lower court's adverse decision and the filing of a notice of appeal; (2) in California, "unreasonable" delays are not timely; and (most pertinently) (3) a California Supreme Court order denying a petition "on the merits" does not automatically indicate that the petition was timely filed.

Respondent Chavis, a California state prisoner, filed a state habeas petition on May 14, 1993, which the trial court denied. On September 29, 1994, the California Court of Appeal also held against him. He then waited more than three years before seeking review in the California Supreme Court. On April 29, 1998, that court issued an order stating simply that the petition was denied. On August 30, 2000, Chavis filed a federal habeas petition. After the case reached it, the Ninth Circuit concluded that the federal petition's timeliness depended on whether Chavis' state postconviction relief application was "pending," therefore tolling AEDPA's limitations period, during the 3-year period between the time the California Court of Appeal issued its opinion and the time he sought review in the State Supreme Court. The Ninth Circuit held that the state application was "pending" because under Circuit precedent a denial without comment or ci-

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tation is treated as a denial on the merits, and a petition denied on the merits was not untimely.

Held: The Ninth Circuit departed from *Saffold*'s interpretation of AEDPA as applied to California's system. Pp. 7–12.

(a) Contrary to *Saffold*, the Circuit in this case said in effect that the California Supreme Court's denial of a petition "on the merits" *did* automatically mean that the petition was timely. More than that, it treated a State Supreme Court order that was silent on the grounds for the court's decision as equivalent to an order in which the words "on the merits" appeared. If the appearance of "on the merits" does not automatically warrant a holding that the filing was timely, the *absence* of those words could not automatically warrant such a holding. Absent (1) clear direction or explanation from the California Supreme Court about the meaning of "reasonable time" in the present context, or (2) clear indication that a particular request for appellate review was timely or untimely, the Ninth Circuit must itself examine the delay in each case and determine what the state courts would have held in respect to timeliness. This is what this Court believes it asked the Circuit to do in *Saffold*. This is what this Court believes the Circuit should have done here. Pp. 7–8.

(b) Given the uncertain scope of California's "reasonable time" standard, it may not be easy for the Ninth Circuit to decide in each of the several hundred federal habeas petitions from California prisoners it hears annually whether a prisoner's state-court review petition was timely. However, for the reasons given in *Saffold,* the Circuit's attempt to create shortcuts looking to the label the California Supreme Court applied to the denial order, even where that label does not refer to timeliness, are not true, either to California's timeliness rule or to AEDPA's intent to toll the 1-year limitations period only when the state collateral review proceeding is "pending." *Saffold,* 536 U. S., at 220–221, 225–226. The California courts might alleviate the problem by clarifying the scope of "reasonable time" or by indicating, when denying a petition, whether the filing was timely. And the Ninth Circuit might seek guidance by certifying a question to the State Supreme Court in an appropriate case. *Id.*, at 226–227. Alternatively, the California Legislature might decide to impose more determinate time limits, conforming California law with that of most other States. Absent any such guidance from state law, however, the Ninth Circuit's only alternative is to simply ask and decide whether the state prisoner's filing was made within a reasonable time. In doing so, the Circuit must be mindful that, in *Saffold*, this Court held that timely filings in California fell within the federal tolling provision *on the assumption* that California's "reasonable time" standard would not lead to filing delays substantially longer than those in

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States with determinate timeliness rules. *Id.*, at 222–223. Pp. 8–10.

(c) Chavis did not file his petition for review in the California Supreme Court within a reasonable time. This Court's examination of the record refutes his claim that his 3-year, 1-month, delay was reasonable because he could not use the prison library to work on his petition during this period. And since Chavis needs all but two days of that lengthy delay to survive the federal 1-year habeas filing period, he cannot succeed. Pp. 10–12.

382 F. 3d 921, reversed and remanded.

BREYER, J., delivered the opinion of the Court, in which ROBERTS, C. J., and O'CONNOR, SCALIA, KENNEDY, SOUTER, THOMAS, and GINSBURG, JJ., joined. STEVENS, J., filed an opinion concurring in the judgment.