SUPREME COURT OF THE UNITED STATES

No. 09–1088

VINCENT CULLEN, ACTING WARDEN, PETITIONER
v. SCOTT LYNN PINHOLSTER

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

[April 4, 2011]

JUSTICE THOMAS delivered the opinion of the Court.*

Scott Lynn Pinholster and two accomplices broke into a house in the middle of the night and brutally beat and stabbed to death two men who happened to interrupt the burglary. A jury convicted Pinholster of first-degree murder, and he was sentenced to death.

After the California Supreme Court twice unanimously denied Pinholster habeas relief, a Federal District Court held an evidentiary hearing and granted Pinholster habeas relief under 28 U. S. C. §2254. The District Court concluded that Pinholster's trial counsel had been constitutionally ineffective at the penalty phase of trial. Sitting en banc, the Court of Appeals for the Ninth Circuit affirmed. *Pinholster* v. *Ayers*, 590 F. 3d 651 (2009). Considering the new evidence adduced in the District Court hearing, the Court of Appeals held that the California Supreme Court's decision "was contrary to, or involved an unreasonable application of, clearly established Federal law." §2254(d)(1).

We granted certiorari and now reverse.

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*JUSTICE GINSBURG and JUSTICE KAGAN join only Part II.

I

A

On the evening of January 8, 1982, Pinholster solicited Art Corona and Paul David Brown to help him rob Michael Kumar, a local drug dealer. On the way, they stopped at Lisa Tapar's house, where Pinholster put his buck knife through her front door and scratched a swastika into her car after she refused to talk to him. The three men, who were all armed with buck knives, found no one at Kumar's house, broke in, and began ransacking the home. They came across only a small amount of marijuana before Kumar's friends, Thomas Johnson and Robert Beckett, arrived and shouted that they were calling the police.

Pinholster and his accomplices tried to escape through the rear door, but Johnson blocked their path. Pinholster backed Johnson onto the patio, demanding drugs and money and repeatedly striking him in the chest. Johnson dropped his wallet on the ground and stopped resisting. Beckett then came around the corner, and Pinholster attacked him, too, stabbing him repeatedly in the chest. Pinholster forced Beckett to the ground, took both men's wallets, and began kicking Beckett in the head. Meanwhile, Brown stabbed Johnson in the chest, "'bury[ing] his knife to the hilt.'" 35 Reporter's Tr. 4947 (hereinafter Tr.). Johnson and Beckett died of their wounds.

Corona drove the three men to Pinholster's apartment. While in the car, Pinholster and Brown exulted, "'We got 'em, man, we got 'em good.'" *Ibid.* At the apartment, Pinholster washed his knife, and the three split the proceeds of the robbery: $23 and one quarter-ounce of marijuana. Although Pinholster instructed Corona to "lay low," Corona turned himself in to the police two weeks later. *Id.,* at 4955. Pinholster was arrested shortly thereafter and threatened to kill Corona if he did not keep quiet about the burglary and murders. Corona later became the

State's primary witness. The prosecution brought numerous charges against Pinholster, including two counts of first-degree murder.

B

The California trial court appointed Harry Brainard and Wilbur Dettmar to defend Pinholster on charges of first-degree murder, robbery, and burglary. Before their appointment, Pinholster had rejected other attorneys and insisted on representing himself. During that time, the State had mailed Pinholster a letter in jail informing him that the prosecution planned to offer aggravating evidence during the penalty phase of trial to support a sentence of death.

The guilt phase of the trial began on February 28, 1984. Pinholster testified on his own behalf and presented an alibi defense. He claimed that he had broken into Kumar's house alone at around 8 p.m. on January 8, 1982, and had stolen marijuana but denied killing anyone. Pinholster asserted that later that night around 1 a.m., while he was elsewhere, Corona went to Kumar's house to steal more drugs and did not return for three hours. Pinholster told the jury that he was a "professional robber," not a murderer. 43 *id.,* at 6204. He boasted of committing hundreds of robberies over the previous six years but insisted that he always used a gun, never a knife. The jury convicted Pinholster on both counts of first-degree murder.

Before the penalty phase, Brainard and Dettmar moved to exclude any aggravating evidence on the ground that the prosecution had failed to provide notice of the evidence to be introduced, as required by Cal. Penal Code Ann. §190.3 (West 2008). At a hearing on April 24, Dettmar argued that, in reliance on the lack of notice, he was "not presently prepared to offer anything by way of mitigation." 52 Tr. 7250. He acknowledged, however, that the prosecu-

tor "possibly ha[d] met the [notice] requirement." *Ibid.* The trial court asked whether a continuance might be helpful, but Dettmar declined, explaining that he could not think of a mitigation witness other than Pinholster's mother and that additional time would not "make a great deal of difference." *Id.,* at 7257–7258. Three days later, after hearing testimony, the court found that Pinholster had received notice while representing himself and denied the motion to exclude.

The penalty phase was held before the same jury that had convicted Pinholster. The prosecution produced eight witnesses, who testified about Pinholster's history of threatening and violent behavior, including resisting arrest and assaulting police officers, involvement with juvenile gangs, and a substantial prison disciplinary record. Defense counsel called only Pinholster's mother, Burnice Brashear. She gave an account of Pinholster's troubled childhood and adolescent years, discussed Pinholster's siblings, and described Pinholster as "a perfect gentleman at home." *Id.,* at 7405. Defense counsel did not call a psychiatrist, though they had consulted Dr. John Stalberg at least six weeks earlier. Dr. Stalberg noted Pinholster's "psychopathic personality traits," diagnosed him with antisocial personality disorder, and concluded that he "was not under the influence of extreme mental or emotional disturbance" at the time of the murders. App. 131.

After 2½ days of deliberation, the jury unanimously voted for death on each of the two murder counts. On mandatory appeal, the California Supreme Court affirmed the judgment. *People* v. *Pinholster*, 1 Cal. 4th 865, 824 P. 2d 571 (1992).

C

In August 1993, Pinholster filed his first state habeas petition. Represented by new counsel, Pinholster alleged,

inter alia, ineffective assistance of counsel at the penalty phase of his trial. He alleged that Brainard and Dettmar had failed to adequately investigate and present mitigating evidence, including evidence of mental disorders. Pinholster supported this claim with school, medical, and legal records, as well as declarations from family members, Brainard, and Dr. George Woods, a psychiatrist who diagnosed Pinholster with bipolar mood disorder and seizure disorders. Dr. Woods criticized Dr. Stalberg's report as incompetent, unreliable, and inaccurate. The California Supreme Court unanimously and summarily[1] denied Pinholster's penalty-phase ineffective-assistance claim "on the substantive ground that it is without merit." App. to Pet. for Cert. 302.

Pinholster filed a federal habeas petition in April 1997. He reiterated his previous allegations about penalty-phase ineffective assistance and also added new allegations that his trial counsel had failed to furnish Dr. Stalberg with adequate background materials. In support of the new allegations, Dr. Stalberg provided a declaration stating that in 1984, Pinholster's trial counsel had provided him with only some police reports and a 1978 probation report. Dr. Stalberg explained that, had he known about the material that had since been gathered by Pinholster's habeas counsel, he would have conducted "further inquiry" before concluding that Pinholster suffered only from a personality disorder. App. to Brief in Opposition 219. He noted that Pinholster's school records showed evidence of "some degree of brain damage." *Ibid.* Dr. Stalberg did not, however, retract his earlier diagnosis. The parties stipulated that this declaration had never been submitted to the California Supreme Court, and the federal petition

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[1]Although the California Supreme Court initially issued an order asking the State to respond, it ultimately withdrew that order as "improvidently issued." App. to Pet. for Cert. 302.

was held in abeyance to allow Pinholster to go back to state court.

In August 1997, Pinholster filed his second state habeas petition, this time including Dr. Stalberg's declaration and requesting judicial notice of the documents previously submitted in support of his first state habeas petition. His allegations of penalty-phase ineffective assistance of counsel mirrored those in his federal habeas petition. The California Supreme Court again unanimously and summarily denied the petition "on the substantive ground that it is without merit."[2] App. to Pet. for Cert. 300.

Having presented Dr. Stalberg's declaration to the state court, Pinholster returned to the District Court. In November 1997, he filed an amended petition for a writ of habeas corpus. His allegations of penalty-phase ineffective assistance of counsel were identical to those in his second state habeas petition. Both parties moved for summary judgment and Pinholster also moved, in the alternative, for an evidentiary hearing.

The District Court concluded that the Antiterrorism and Effective Death Penalty Act of 1996 (AEDPA), 110 Stat. 1214, did not apply and granted an evidentiary hearing. Before the hearing, the State deposed Dr. Stalberg, who stated that none of the new material he reviewed altered his original diagnosis. Dr. Stalberg disagreed with Dr. Woods' conclusion that Pinholster suffers from bipolar disorder. Pinholster did not call Dr. Stalberg to testify at the hearing. He presented two new medical experts: Dr. Sophia Vinogradov, a psychiatrist who diagnosed Pinholster with organic personality syndrome and ruled out antisocial personality disorder, and Dr. Donald Olson, a

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[2]A majority also "[s]eparately and independently" denied several claims, including penalty-phase ineffective assistance of counsel, as untimely, successive, and barred by res judicata. *Id.,* at 300. The State has not argued that these procedural rulings constitute adequate and independent state grounds that bar federal habeas review.

pediatric neurologist who suggested that Pinholster suffers from partial epilepsy and brain injury. The State called Dr. F. David Rudnick, a psychiatrist who, like Dr. Stalberg, diagnosed Pinholster with antisocial personality disorder and rejected any diagnosis of bipolar disorder.

D

The District Court granted habeas relief. Applying pre-AEDPA standards, the court granted the habeas petition "for inadequacy of counsel by failure to investigate and present mitigation evidence at the penalty hearing." App. to Pet. for Cert. 262. After *Woodford* v. *Garceau*, 538 U. S. 202 (2003), clarified that AEDPA applies to cases like Pinholster's, the court amended its order but did not alter its conclusion. Over a dissent, a panel of the Court of Appeals for the Ninth Circuit reversed. *Pinholster* v. *Ayers*, 525 F. 3d 742 (2008).

On rehearing en banc, the Court of Appeals vacated the panel opinion and affirmed the District Court's grant of habeas relief. The en banc court held that the District Court's evidentiary hearing was not barred by 28 U. S. C. §2254(e)(2). The court then determined that new evidence from the hearing could be considered in assessing whether the California Supreme Court's decision "was contrary to, or involved an unreasonable application of, clearly established Federal law" under §2254(d)(1). See 590 F. 3d, at 666 ("Congress did not intend to restrict the inquiry under §2254(d)(1) only to the evidence introduced in the state habeas court"). Taking the District Court evidence into account, the en banc court determined that the California Supreme Court unreasonably applied *Strickland* v. *Washington*, 466 U. S. 668 (1984), in denying Pinholster's claim of penalty-phase ineffective assistance of counsel.

Three judges dissented and rejected the majority's conclusion that the District Court hearing was not barred by §2254(e)(2). 590 F. 3d, at 689 (opinion of Kozinski,

C. J.) (characterizing Pinholster's efforts as "habeas-by-sandbagging"). Limiting its review to the state-court record, the dissent concluded that the California Supreme Court did not unreasonably apply *Strickland*. 590 F. 3d, at 691–723.

We granted certiorari to resolve two questions. 560 U. S. ___ (2010). First, whether review under §2254(d)(1) permits consideration of evidence introduced in an evidentiary hearing before the federal habeas court. Second, whether the Court of Appeals properly granted Pinholster habeas relief on his claim of penalty-phase ineffective assistance of counsel.

II

We first consider the scope of the record for a §2254(d)(1) inquiry. The State argues that review is limited to the record that was before the state court that adjudicated the claim on the merits. Pinholster contends that evidence presented to the federal habeas court may also be considered. We agree with the State.

A

As amended by AEDPA, 28 U. S. C. §2254 sets several limits on the power of a federal court to grant an application for a writ of habeas corpus on behalf of a state prisoner. Section 2254(a) permits a federal court to entertain only those applications alleging that a person is in state custody "in violation of the Constitution or laws or treaties of the United States." Sections 2254(b) and (c) provide that a federal court may not grant such applications unless, with certain exceptions, the applicant has exhausted state remedies.

If an application includes a claim that has been "adjudicated on the merits in State court proceedings," §2254(d), an additional restriction applies. Under §2254(d), that application "shall not be granted with respect to [such a]

claim . . . unless the adjudication of the claim":

> "(1) resulted in a decision that was contrary to, or involved an unreasonable application of, clearly established Federal law, as determined by the Supreme Court of the United States; or
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> "(2) resulted in a decision that was based on an unreasonable determination of the facts in light of the evidence presented in the State court proceeding."

This is a "difficult to meet," *Harrington* v. *Richter*, 562 U. S. ___, ___ (2011) (slip op., at 12), and "highly deferential standard for evaluating state-court rulings, which demands that state-court decisions be given the benefit of the doubt," *Woodford* v. *Visciotti*, 537 U. S. 19, 24 (2002) *(per curiam)* (citation and internal quotation marks omitted). The petitioner carries the burden of proof. *Id.,* at 25.

We now hold that review under §2254(d)(1) is limited to the record that was before the state court that adjudicated the claim on the merits. Section 2254(d)(1) refers, in the past tense, to a state-court adjudication that "resulted in" a decision that was contrary to, or "involved" an unreasonable application of, established law. This backward-looking language requires an examination of the state-court decision at the time it was made. It follows that the record under review is limited to the record in existence at that same time—*i.e.*, the record before the state court.

This understanding of the text is compelled by "the broader context of the statute as a whole," which demonstrates Congress' intent to channel prisoners' claims first to the state courts. *Robinson* v. *Shell Oil Co.*, 519 U. S. 337, 341 (1997). "The federal habeas scheme leaves primary responsibility with the state courts . . . ." *Visciotti*, *supra,* at 27. Section 2254(b) requires that prisoners must ordinarily exhaust state remedies before filing for federal habeas relief. It would be contrary to that purpose to allow a petitioner to overcome an adverse state-court

decision with new evidence introduced in a federal habeas court and reviewed by that court in the first instance effectively *de novo*.

Limiting §2254(d)(1) review to the state-court record is consistent with our precedents interpreting that statutory provision. Our cases emphasize that review under §2254(d)(1) focuses on what a state court knew and did. State-court decisions are measured against this Court's precedents as of "the time the state court renders its decision." *Lockyer* v. *Andrade*, 538 U. S. 63, 71–72 (2003). To determine whether a particular decision is "contrary to" then-established law, a federal court must consider whether the decision "applies a rule that contradicts [such] law" and how the decision "confronts [the] set of facts" that were before the state court. *Williams* v. *Taylor*, 529 U. S. 362, 405, 406 (2000) *(Terry Williams)*. If the state-court decision "identifies the correct governing legal principle" in existence at the time, a federal court must assess whether the decision "unreasonably applies that principle to the facts of the prisoner's case." *Id.,* at 413. It would be strange to ask federal courts to analyze whether a state court's adjudication resulted in a decision that unreasonably applied federal law to facts not before the state court.[3]

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[3]JUSTICE SOTOMAYOR argues that there is nothing strange about allowing consideration of new evidence under §2254(d)(1) because, in her view, it would not be "so different" from some other tasks that courts undertake. *Post*, at 13 (dissenting opinion). What makes the consideration of new evidence strange is not how "different" the task would be, but rather the notion that a state court can be deemed to have unreasonably applied federal law to evidence it did not even know existed. We cannot comprehend how exactly a state court would have any control over its application of law to matters beyond its knowledge. Adopting JUSTICE SOTOMAYOR's approach would not take seriously AEDPA's requirement that federal courts defer to state-court decisions and would effectively treat the statute as no more than a "'mood' that the Federal Judiciary must respect," *Terry Williams*, 529 U. S., at 386

Our recent decision in *Schriro* v. *Landrigan*, 550 U. S. 465 (2007), is consistent as well with our holding here. We explained that "[b]ecause the deferential standards prescribed by §2254 control whether to grant habeas relief, a federal court must take into account those standards in deciding whether an evidentiary hearing is appropriate." *Id.,* at 474. In practical effect, we went on to note, this means that when the state-court record "precludes habeas relief" under the limitations of §2254(d), a district court is "not required to hold an evidentiary hearing." *Id.,* at 474 (citing with approval the Ninth Circuit's recognition that "an evidentiary hearing is not required on issues that can be resolved by reference to the state court record" (internal quotation marks omitted)).

The Court of Appeals wrongly interpreted *Williams* v. *Taylor*, 529 U. S. 420 (2000) *(Michael Williams)*, as supporting the contrary view. The question there was whether the lower court had correctly determined that §2254(e)(2) barred the petitioner's request for a federal evidentiary hearing.[4] *Michael Williams* did not concern whether evidence introduced in such a hearing could be considered under §2254(d)(1). In fact, only one claim at issue in that case was even subject to §2254(d); the rest had not been adjudicated on the merits in state-court proceedings. See *id.,* at 429 ("Petitioner did not develop, or raise, his claims . . . until he filed his federal habeas petition").[5]

(opinion of Stevens, J.).

[4] If a prisoner has "failed to develop the factual basis of a claim in State court proceedings," §2254(e)(2) bars a federal court from holding an evidentiary hearing, unless the applicant meets certain statutory requirements.

[5] JUSTICE SOTOMAYOR's suggestion that *Michael Williams* "rejected" the conclusion here, see *post*, at 15, is thus quite puzzling. In the passage that she quotes, see *ibid.*, the Court merely explains that §2254(e)(2) should be interpreted in a way that does not preclude a state prisoner, who was diligent in state habeas court and who can

If anything, the decision in *Michael Williams* supports our holding. The lower court in that case had determined that the one claim subject to §2254(d)(1) did not satisfy that statutory requirement. In light of that ruling, this Court concluded that it was "unnecessary to reach the question whether §2254(e)(2) would permit a [federal] hearing on th[at] claim." *Id.,* at 444. That conclusion is fully consistent with our holding that evidence later introduced in federal court is irrelevant to §2254(d)(1) review.

The Court of Appeals' reliance on *Holland* v. *Jackson*, 542 U. S. 649 (2004) *(per curiam)*, was also mistaken. In *Holland*, we initially stated that "whether a state court's decision was unreasonable [under §2254(d)(1)] must be assessed in light of the record the court had before it." *Id.,* at 652. We then went on to *assume* for the sake of argument what some Courts of Appeals had held—that §2254(d)(1), despite its mandatory language, simply does not apply when a federal habeas court has admitted new evidence that supports a claim previously adjudicated in state court.[6] *Id.,* at 653. There was no reason to decide that question because regardless, the hearing should have been barred by §2254(e)(2). Today, we reject that assumption and hold that evidence introduced in federal court has no bearing on §2254(d)(1) review. If a claim has been adjudicated on the merits by a state court, a federal habeas petitioner must overcome the limitation of §2254(d)(1) on the record that was before that state court.[7]

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satisfy §2254(d), from receiving an evidentiary hearing.

[6] In *Bradshaw* v. *Richey*, 546 U. S. 74 (2005) *(per curiam)*, on which the Court of Appeals also relied, we made the same assumption. *Id.,* at 79–80 (discussing the State's "*Holland* argument").

[7] Pinholster and JUSTICE SOTOMAYOR place great weight on the fact that §2254(d)(2) includes the language "in light of the evidence presented in the State court proceeding," whereas §2254(d)(1) does not. See *post*, at 6–7. The additional clarity of §2254(d)(2) on this point, however, does not detract from our view that §2254(d)(1) also is plainly limited to the state-court record. The omission of clarifying language

B

Pinholster's contention that our holding renders §2254(e)(2) superfluous is incorrect. Section 2254(e)(2) imposes a limitation on the discretion of federal habeas courts to take new evidence in an evidentiary hearing. See *Landrigan*, *supra,* at 473 (noting that district courts, under AEDPA, generally retain the discretion to grant an evidentiary hearing). Like §2254(d)(1), it carries out "AEDPA's goal of promoting comity, finality, and federalism by giving state courts the first opportunity to review [a] claim, and to correct any constitutional violation in the first instance." *Jimenez* v. *Quarterman*, 555 U. S. 113, ___ (2009) (slip op., at 8) (internal quotation marks omitted).[8]

Section 2254(e)(2) continues to have force where §2254(d)(1) does not bar federal habeas relief. For example, not all federal habeas claims by state prisoners fall within the scope of §2254(d), which applies only to claims "adjudicated on the merits in State court proceedings." At a minimum, therefore, §2254(e)(2) still restricts the discretion of federal habeas courts to consider new evidence when deciding claims that were not adjudicated on the merits in state court. See, *e.g.*, *Michael Williams*, 529 U. S., at 427–429.[9]

Although state prisoners may sometimes submit new

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from §2254(d)(1) just as likely reflects Congress' belief that such language was unnecessary as it does anything else.

[8]JUSTICE SOTOMAYOR's argument that §2254(d)(1) must be read in a way that "accommodates" §2254(e)(2), see *post*, at 9, rests on a fundamental misunderstanding of §2254(e)(2). The focus of that section is not on "preserving the opportunity" for hearings, *post*, at 9, but rather on *limiting* the discretion of federal district courts in holding hearings. We see no need in this case to address the proper application of §2254(e)(2). See n. 20, *infra.* But see *post*, at 12 (suggesting that we have given §2254(e)(2) "an unnaturally cramped reading").

[9]In all events, of course, the requirements of §§2254(a) through (c) remain significant limitations on the power of a federal court to grant habeas relief.

evidence in federal court, AEDPA's statutory scheme is designed to strongly discourage them from doing so. Provisions like §§2254(d)(1) and (e)(2) ensure that "[f]ederal courts sitting in habeas are not an alternative forum for trying facts and issues which a prisoner made insufficient effort to pursue in state proceedings." *Id.,* at 437; see also *Richter*, 562 U. S., at ___ (slip op., at 13) ("Section 2254(d) is part of the basic structure of federal habeas jurisdiction, designed to confirm that state courts are the principal forum for asserting constitutional challenges to state convictions"); *Wainwright* v. *Sykes*, 433 U. S. 72, 90 (1977) ("[T]he state trial on the merits [should be] the 'main event,' so to speak, rather than a 'tryout on the road' for what will later be the determinative federal habeas hearing").[10]

C

Accordingly, we conclude that the Court of Appeals erred in considering the District Court evidence in its review under §2254(d)(1). Although we might ordinarily remand for a properly limited review, the Court of Appeals also ruled, in the alternative, that Pinholster merited habeas relief even on the state-court record alone. 590 F. 3d, at 669. Remand is therefore inappropriate, and we turn next to a review of the state-court record.

III

The Court of Appeals' alternative holding was also erroneous. Pinholster has failed to demonstrate that the California Supreme Court unreasonably applied clearly established federal law to his penalty-phase ineffective-

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[10] Though we do not decide where to draw the line between new claims and claims adjudicated on the merits, see n. 11, *infra*, JUSTICE SOTOMAYOR's hypothetical involving new evidence of withheld exculpatory witness statements, see *post*, at 9–10, may well present a new claim.

assistance claim on the state-court record. Section 2254(d) prohibits habeas relief.

A

Section 2254(d) applies to Pinholster's claim because that claim was adjudicated on the merits in state-court proceedings. No party disputes that Pinholster's federal petition alleges an ineffective-assistance-of-counsel claim that had been included in both of Pinholster's state habeas petitions. The California Supreme Court denied each of those petitions "on the substantive ground that it is without merit."[11]

Section 2254(d) applies even where there has been a summary denial. See *Richter*, 562 U. S., at ___ (slip op., at 8). In these circumstances, Pinholster can satisfy the "unreasonable application" prong of §2254(d)(1) only by showing that "there was no reasonable basis" for the California Supreme Court's decision. *Id.,* at ___ (slip op., at 8). "[A] habeas court must determine what arguments or theories . . . could have supporte[d] the state court's decision; and then it must ask whether it is possible fairminded jurists could disagree that those arguments or

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[11] The State does not contest that the *alleged* claim was adjudicated on the merits by the California Supreme Court, but it asserts that some of the evidence adduced in the federal evidentiary hearing fundamentally changed Pinholster's claim so as to render it effectively unadjudicated. See Brief for Petitioner 28–31; Reply Brief for Petitioner 4–5; Tr. of Oral Arg. 18. Pinholster disagrees and argues that the evidence adduced in the evidentiary hearing simply supports his alleged claim. Brief for Respondent 33–37.

We need not resolve this dispute because, even accepting Pinholster's position, he is not entitled to federal habeas relief. Pinholster has failed to show that the California Supreme Court unreasonably applied clearly established federal law on the record before that court, *infra*, at 18–23, 26–30, which brings our analysis to an end. Even if the evidence adduced in the District Court additionally supports his claim, as Pinholster contends, we are precluded from considering it. See n. 20, *infra*.

theories are inconsistent with the holding in a prior decision of this Court." *Id.,* at ___ (slip op., at 12). After a thorough review of the state-court record,[12] we conclude that Pinholster has failed to meet that high threshold.

B

There is no dispute that the clearly established federal law here is *Strickland* v. *Washington*. In *Strickland*, this Court made clear that "the purpose of the effective assistance guarantee of the Sixth Amendment is not to improve the quality of legal representation . . . [but] simply to

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[12]The parties agree that the state-court record includes both the "allegations of [the] habeas corpus petition . . . and . . . 'any matter of record pertaining to the case.'" *In re Hochberg*, 2 Cal. 3d 870, 874, n. 2, 471 P. 2d 1, 3–4, n. 2 (1970) (quoting Cal. Rule of Court 60), rejected on another ground by *In re Fields*, 51 Cal. 3d 1063, 1070, n. 3, 800 P. 2d 862, 866, n. 3 (1990); see Reply Brief for Petitioner 16–17; Tr. of Oral Arg. 45. Under California law, the California Supreme Court's summary denial of a habeas petition on the merits reflects that court's determination that "the claims made in th[e] petition do not state a prima facie case entitling the petitioner to relief." *In re Clark*, 5 Cal. 4th 750, 770, 855 P. 2d 729, 741–742 (1993). It appears that the court generally assumes the allegations in the petition to be true, but does not accept wholly conclusory allegations, *People* v. *Duvall*, 9 Cal. 4th 464, 474, 886 P. 2d 1252, 1258 (1995), and will also "review the record of the trial . . . to assess the merits of the petitioner's claims," *Clark*, *supra,* at 770, 855 P. 2d, at 742.

The specific contents of the state-court record depend on which of the two state habeas proceedings is at issue. One *amicus curiae* suggests that both are at issue—that is, Pinholster must prove that *both* California Supreme Court proceedings involved an unreasonable application of law under §2254(d)(1). See Brief for Criminal Justice Legal Foundation 26. By contrast, the most favorable approach for Pinholster would be review of only the second state habeas proceeding, the record of which includes all of the evidence that Pinholster ever submitted in state habeas. We have not previously ruled on how to proceed in these circumstances, and we need not do so here. Even taking the approach most favorable to Pinholster, and reviewing only whether the California Supreme Court was objectively unreasonable in the second state habeas proceeding, we find that Pinholster has failed to satisfy §2254(d)(1).

ensure that criminal defendants receive a fair trial." 466 U. S., at 689. Thus, "[t]he benchmark for judging any claim of ineffectiveness must be whether counsel's conduct *so undermined* the proper functioning of the adversarial process that the trial cannot be relied on as having produced a just result." *Id.,* at 686 (emphasis added). The Court acknowledged that "[t]here are countless ways to provide effective assistance in any given case," and that "[e]ven the best criminal defense attorneys would not defend a particular client in the same way." *Id.,* at 689.

Recognizing the "tempt[ation] for a defendant to second-guess counsel's assistance after conviction or adverse sentence," *ibid.*, the Court established that counsel should be "strongly presumed to have rendered adequate assistance and made all significant decisions in the exercise of reasonable professional judgment," *id.,* at 690. To overcome that presumption, a defendant must show that counsel failed to act "reasonabl[y] considering all the circumstances." *Id.,* at 688. The Court cautioned that "[t]he availability of intrusive post-trial inquiry into attorney performance or of detailed guidelines for its evaluation would encourage the proliferation of ineffectiveness challenges." *Id.,* at 690.

The Court also required that defendants prove prejudice. *Id.,* at 691–692. "The defendant must show that there is a reasonable probability that, but for counsel's unprofessional errors, the result of the proceeding would have been different." *Id.,* at 694. "A reasonable probability is a probability sufficient to undermine confidence in the outcome." *Ibid.* That requires a "substantial," not just "conceivable," likelihood of a different result. *Richter*, 562 U. S., at ___ (slip op., at 22).

Our review of the California Supreme Court's decision is thus "doubly deferential." *Knowles* v. *Mirzayance*, 556 U. S. ___, ___ (2009) (slip op., at 11) (citing *Yarborough* v. *Gentry*, 540 U. S. 1, 5–6 (2003) *(per curiam)*). We take a

"highly deferential" look at counsel's performance, *Strickland*, *supra,* at 689, through the "deferential lens of §2254(d)," *Mirzayance*, *supra,* at ___, n. 2 (slip op., at 9, n. 2). Pinholster must demonstrate that it was necessarily unreasonable for the California Supreme Court to conclude: (1) that he had not overcome the strong presumption of competence; and (2) that he had failed to undermine confidence in the jury's sentence of death.

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Pinholster has not shown that the California Supreme Court's decision that he could not demonstrate deficient performance by his trial counsel necessarily involved an unreasonable application of federal law. In arguing to the state court that his counsel performed deficiently, Pinholster contended that they should have pursued and presented additional evidence about: his family members and their criminal, mental, and substance abuse problems; his schooling; and his medical and mental health history, including his epileptic disorder. To support his allegation that his trial counsel had "no reasonable tactical basis" for the approach they took, Pinholster relied on statements his counsel made at trial. App. to Brief in Opposition 143. When arguing the motion to exclude the State's aggravating evidence at the penalty phase for failure to comply with Cal. Penal Code Ann. §190.3, Dettmar, one of Pinholster's counsel, contended that because the State did not provide notice, he "[was] not presently prepared to offer anything by way of mitigation," 52 Tr. 7250. In response to the trial court's inquiry as to whether a continuance might be helpful, Dettmar noted that the only mitigation witness he could think of was Pinholster's mother. Additional time, Dettmar stated, would not "make a great deal of difference." *Id.,* at 7257–7258.

We begin with the premise that "under the circum-

stances, the challenged action[s] might be considered sound trial strategy." *Strickland*, *supra,* at 689 (internal quotation marks omitted). The Court of Appeals dissent described one possible strategy:

> "[Pinholster's attorneys] were fully aware that they would have to deal with mitigation sometime during the course of the trial, did spend considerable time and effort investigating avenues for mitigation[,] and made a reasoned professional judgment that the best way to serve their client would be to rely on the fact that they never got [the required §190.3] notice and hope the judge would bar the state from putting on their aggravation witnesses." 590 F. 3d, at 701–702 (opinion of Kozinski, C. J.).

Further, if their motion was denied, counsel were prepared to present only Pinholster's mother in the penalty phase to create sympathy not for Pinholster, but for his mother. After all, the "'family sympathy'" mitigation defense was known to the defense bar in California at the time and had been used by other attorneys. *Id.,* at 707. Rather than displaying neglect, we presume that Dettmar's arguments were part of this trial strategy. See *Gentry*, *supra,* at 8 ("[T]here is a strong presumption that [counsel took certain actions] for tactical reasons rather than through sheer neglect" (citing *Strickland*, *supra,* at 690)).

The state-court record supports the idea that Pinholster's counsel acted strategically to get the prosecution's aggravation witnesses excluded for lack of notice, and if that failed, to put on Pinholster's mother. Other statements made during the argument regarding the motion to exclude suggest that defense counsel were trying to take advantage of a legal technicality and were not truly surprised. Brainard and Dettmar acknowledged that the prosecutor had invited them on numerous occasions to

review Pinholster's state prison file but argued that such an invitation did not meet with the "strict demands" of §190.3. 52 Tr. 7260. Dettmar admitted that the prosecutor, "being as thorough as she is, possibly ha[d] met the requirement." *Id.,* at 7250. But if so, he wanted her "to make that representation to the court."[13] *Ibid.*

Timesheets indicate that Pinholster's trial counsel investigated mitigating evidence.[14] Long before the guilty verdict, Dettmar talked with Pinholster's mother and contacted a psychiatrist.[15] On February 26, two months before the penalty phase started, he billed six hours for "[p]reparation argument, death penalty phase." See Clerk's Tr. 864. Brainard, who merely assisted Dettmar for the penalty phase, researched epilepsy and also interviewed Pinholster's mother.[16] We know that Brainard likely spent additional time, not reflected in these entries, preparing Pinholster's brother, Terry, who provided some mitigation testimony about Pinholster's background dur-

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[13] Counsel's argument was persuasive enough to cause the trial court to hold a hearing and take testimony before denying the motion to exclude.

[14] Both parties agree that these billing records were before the California Supreme Court. See Tr. of Oral Arg. 45, 48–49.

[15] See Clerk's Tr. 798 (entry on Jan. 13 for "phone call to defendant's mother re medical history"); *id.,* at 864 (entries on Feb. 21 for "Penal Code research on capital punishment"; Feb. 23 for "conference with defendant's mother re childhood problems"; Feb. 25 for "Research on Pen. C. 190.3"; and Feb. 29 for "photocopying reports for appointed expert," "Preparation of Declaration and Order for appointment of psychiatrist," "Preparation order of visitation for investigator," and "Further research on Pen. C. 190.3"). The time records for Dettmar unfortunately stop with Mar. 14, so we do not know what he did during the critical weeks leading up to the penalty phase on May 1.

[16] See *id.,* at 869 (entries on Feb. 23 for "Conf. with Bernice Brasher, Pinholster's mother"; and Feb. 25 for "Research re; epilepsy and conf. with nurse"); *id.,* at 1160 (entries on Apr. 11 for "Start prep. for penalty phase"; Apr. 25 for "Prep. penalty phase and conf. with Mrs. Brashear"; and Apr. 26 for "Prep. penalty phase").

ing the guilt phase. *Infra*, at 28.

The record also shows that Pinholster's counsel confronted a challenging penalty phase with an unsympathetic client, which limited their feasible mitigation strategies. By the end of the guilt phase, the jury had observed Pinholster "glor[y]" in "his criminal disposition" and "hundreds of robberies." *Pinholster*, 1 Cal. 4th, at 945, 907, 824 P. 2d, at 611, 584. During his cross-examination, Pinholster laughed or smirked when he told the jury that his "occupation" was "a crook," when he was asked whether he had threatened a potential witness, and when he described thwarting police efforts to recover a gun he had once used. 44 Tr. 6225. He bragged about being a "professional robber." 43 *id.,* at 6204. To support his defense, Pinholster claimed that he used only guns—not knives—to commit his crimes. But during cross-examination, Pinholster admitted that he had previously been convicted of using a knife in a kidnaping. Pinholster also said he was a white supremacist and that he frequently carved swastikas into other people's property as "a sideline to robbery." 44 *id.,* at 6246.

Trial counsel's psychiatric expert, Dr. Stalberg, had concluded that Pinholster showed no significant signs or symptoms of mental disorder or defect other than his "psychopathic personality traits." App. 131. Dr. Stalberg was aware of Pinholster's hyperactivity as a youngster, hospitalization at age 14 for incorrigibility, alleged epileptic disorder, and history of drug dependency. Nevertheless, Dr. Stalberg told counsel that Pinholster did not appear to suffer from brain damage, was not significantly intoxicated or impaired on the night in question, and did not have an impaired ability to appreciate the criminality of his conduct.

Given these impediments, it would have been a reasonable penalty-phase strategy to focus on evoking sympathy for Pinholster's mother. In fact, such a family sympathy

defense is precisely how the State understood defense counsel's strategy. The prosecutor carefully opened her cross-examination of Pinholster's mother with, "I hope you understand I don't enjoy cross-examining a mother of anybody." 52 Tr. 7407. And in her closing argument, the prosecutor attempted to undercut defense counsel's strategy by pointing out, "Even the most heinous person born, even Adolph Hitler[,] probably had a mother who loved him." 53 *id.,* at 7452.

Pinholster's only response to this evidence is a series of declarations from Brainard submitted with Pinholster's first state habeas petition, seven years after the trial. Brainard declares that he has "no recollection" of interviewing any family members (other than Pinholster's mother) regarding penalty-phase testimony, of attempting to secure Pinholster's school or medical records, or of interviewing any former teachers or counselors. Pet. for Writ of Habeas Corpus in No. S004616 (Cal.), Exh. 3. Brainard also declares that Dettmar was primarily responsible for mental health issues in the case, but he has "no recollection" of Dettmar ever having secured Pinholster's medical records. *Id.,* Exh. 2. Dettmar neither confirmed nor denied Brainard's statements, as he had died by the time of the first state habeas petition. 590 F. 3d, at 700 (Kozinski, C. J., dissenting).

In sum, Brainard and Dettmar made statements suggesting that they were not surprised that the State intended to put on aggravating evidence, billing records show that they spent time investigating mitigating evidence, and the record demonstrates that they represented a psychotic client whose performance at trial hardly endeared him to the jury. Pinholster has responded to this evidence with only a handful of *post-hoc* nondenials by one of his lawyers. The California Supreme Court could have reasonably concluded that Pinholster had failed to rebut the presumption of competence mandated by *Strickland*—

here, that counsel had adequately performed at the penalty phase of trial.

2

The Court of Appeals held that the California Supreme Court had unreasonably applied *Strickland* because Pinholster's attorneys "w[ere] far more deficient than . . . the attorneys in *Terry Williams*, *Wiggins* [v. *Smith*, 539 U. S. 510 (2003)], and *Rompilla* [v. *Beard*, 545 U. S. 374 (2005)], where in each case the Supreme Court upheld the petitioner's ineffective assistance claim." 590 F. 3d, at 671. The court drew from those cases a "constitutional duty to investigate," *id.,* at 674, and the principle that "[i]t is prima facie ineffective assistance for counsel to 'abandon[ ] their investigation of [the] petitioner's background after having acquired only rudimentary knowledge of his history from a narrow set of sources,'" *ibid.* (quoting *Wiggins* v. *Smith*, 539 U. S. 510, 524–525 (2003)). The court explained that it could not "lightly disregard" a failure to introduce evidence of "excruciating life history" or "nightmarish childhood." 590 F. 3d, at 684 (internal quotation marks omitted).

The Court of Appeals misapplied *Strickland* and overlooked "the constitutionally protected independence of counsel and . . . the wide latitude counsel must have in making tactical decisions." 466 U. S., at 689. Beyond the general requirement of reasonableness, "specific guidelines are not appropriate." *Id.,* at 688. "No particular set of detailed rules for counsel's conduct can satisfactorily take account of the variety of circumstances faced by defense counsel or the range of legitimate decisions . . . ." *Id.,* at 688–689. *Strickland* itself rejected the notion that the same investigation will be required in every case. *Id.,* at 691 ("[C]ounsel has a duty to make reasonable investigations *or* to make a reasonable decision that makes particular investigations unnecessary" (emphasis added)). It

is "[r]are" that constitutionally competent representation will require "any one technique or approach." *Richter*, 562 U. S., at ___ (slip op., at 17). The Court of Appeals erred in attributing strict rules to this Court's recent case law.[17]

Nor did the Court of Appeals properly apply the strong presumption of competence that *Strickland* mandates. The court dismissed the dissent's application of the presumption as "fabricat[ing] an excuse that the attorneys themselves could not conjure up." 590 F. 3d, at 673. But *Strickland* specifically commands that a court "must indulge [the] strong presumption" that counsel "made all significant decisions in the exercise of reasonable professional judgment." 466 U. S., at 689–690. The Court of Appeals was required not simply to "give [the] attorneys the benefit of the doubt," 590 F. 3d, at 673, but to affirmatively entertain the range of possible "reasons Pinholster's counsel may have had for proceeding as they did," *id.,* at 692 (Kozinski, C. J., dissenting). See also *Richter*, *supra*, at ___ (slip op., at 20) ("*Strickland* . . . calls for an inquiry into the objective reasonableness of counsel's performance, not counsel's subjective state of mind").

JUSTICE SOTOMAYOR questions whether it would have been a reasonable professional judgment for Pinholster's trial counsel to adopt a family-sympathy mitigation defense. *Post*, at 27. She cites no evidence, however, that such an approach would have been inconsistent with the standard of professional competence in capital cases that prevailed in Los Angeles in 1984. Indeed, she does not contest that, at the time, the defense bar in California had been using that strategy. See *supra*, at 19; *post*, at 28, n. 21. JUSTICE SOTOMAYOR relies heavily on *Wiggins*, but

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[17] The Court of Appeals was not necessarily wrong in looking to other precedents of this Court for guidance, but "the *Strickland* test 'of necessity requires a case-by-case examination of the evidence.'" *Terry Williams*, 529 U. S. 362, 391 (2000) (quoting *Wright* v. *West*, 505 U. S. 277, 308 (1992) (KENNEDY, J., concurring in judgment)).

in that case the defendant's trial counsel specifically acknowledged a standard practice for capital cases in Maryland that was inconsistent with what he had done. 539 U. S., at 524.

At bottom, JUSTICE SOTOMAYOR's view is grounded in little more than her own sense of "prudence," *post*, at 26 (internal quotation marks omitted), and what appears to be her belief that the only reasonable mitigation strategy in capital cases is to "help" the jury "understand" the defendant, *post,* at 35. According to JUSTICE SOTOMAYOR, that Pinholster was an unsympathetic client "compound[ed], rather than excuse[d], counsel's deficiency" in pursuing further evidence "that could explain why Pinholster was the way he was." *Post*, at 30. But it certainly can be reasonable for attorneys to conclude that creating sympathy for the defendant's *family* is a better idea because the defendant himself is simply unsympathetic.

JUSTICE SOTOMAYOR's approach is flatly inconsistent with *Strickland*'s recognition that "[t]here are countless ways to provide effective assistance in any given case." 466 U. S., at 689. There comes a point where a defense attorney will reasonably decide that another strategy is in order, thus "mak[ing] particular investigations unnecessary." *Id.,* at 691; cf. 590 F. 3d, at 692 (Kozinski, C. J., dissenting) ("The current infatuation with 'humanizing' the defendant as the be-all and end-all of mitigation disregards the possibility that this may be the wrong tactic in some cases because experienced lawyers conclude that the jury simply won't buy it"). Those decisions are due "a heavy measure of deference." *Strickland*, *supra,* at 691. The California Supreme Court could have reasonably concluded that Pinholster's counsel made such a reasoned decision in this case.

We have recently reiterated that "'[s]urmounting *Strickland*'s high bar is never an easy task.'" *Richter*, *supra*, at ___ (slip op., at 15) (quoting *Padilla* v. *Kentucky*, 559 U. S.

___, ___ (2010) (slip op., at 14)). The *Strickland* standard must be applied with "scrupulous care." *Richter*, *supra*, at ___ (slip op., at 15). The Court of Appeals did not do so here.

D

Even if his trial counsel had performed deficiently, Pinholster also has failed to show that the California Supreme Court must have unreasonably concluded that Pinholster was not prejudiced. "[T]he question is whether there is a reasonable probability that, absent the errors, the sentencer . . . would have concluded that the balance of aggravating and mitigating circumstances did not warrant death." *Strickland*, *supra,* at 695. We therefore "reweigh the evidence in aggravation against the totality of available mitigating evidence." *Wiggins*, *supra,* at 534.

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We turn first to the aggravating and mitigating evidence that the sentencing jury considered. See *Strickland*, *supra,* at 695 ("[A] court hearing an ineffectiveness claim must consider the totality of the evidence before the judge or jury"). Here, the same jury heard both the guilt and penalty phases and was instructed to consider all the evidence presented. Cf. *Visciotti*, 537 U. S., at 25 (noting that the state habeas court had correctly considered mitigating evidence introduced during the guilt phase).

The State presented extensive aggravating evidence. As we have already discussed, the jury watched Pinholster revel in his extensive criminal history. *Supra*, at 21. Then, during the penalty phase, the State presented evidence that Pinholster had threatened to kill the State's lead witness, assaulted a man with a straight razor, and kidnaped another person with a knife. The State showed that Pinholster had a history of violent outbursts, including striking and threatening a bailiff after a court proceed-

ing at age 17, breaking his wife's jaw,[18] resisting arrest by faking seizures, and assaulting and spitting on police officers. The jury also heard about Pinholster's involvement in juvenile gangs and his substantial disciplinary record in both county and state jails, where he had threatened, assaulted, and thrown urine at guards, and fought with other inmates. While in jail, Pinholster had been segregated for a time due to his propensity for violence and placed on a "special disciplinary diet" reserved only for the most disruptive inmates. 52 Tr. 7305.

The mitigating evidence consisted primarily of the penalty-phase testimony of Pinholster's mother, Brashear, who gave a detailed account of Pinholster's troubled childhood and adolescence. Early childhood was quite difficult. The family "didn't have lots of money." *Id.,* at 7404. When he was very young, Pinholster suffered two serious head injuries, first at age 2 or 3 when he was run over by a car, and again at age 4 or 5 when he went through the windshield during a car accident. When he was 5, Pinholster's stepfather moved in and was abusive, or nearly so.

Pinholster always struggled in school. He was disruptive in kindergarten and was failing by first grade. He got in fights and would run out of the classroom. In third grade, Pinholster's teacher suggested that he was more than just a "'disruptive child.'" *Id.,* at 7394. Following tests at a clinic, Pinholster was sent to a school for educationally handicapped children where his performance improved.

At age 10, psychiatrists recommended that Pinholster be sent to a mental institution, although he did not go. Pinholster had continued to initiate fights with his brothers and to act like "Robin Hood" around the neighborhood,

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[18] Pinholster's wife waived her spousal privilege to testify to this fact. She acknowledged that her testimony would be used to argue that her husband should be executed.

"[s]tealing from the rich and giving to the poor." *Id.,* at 7395. Brashear had thought then that "[s]omething was not working right." *Id.,* at 7396.

By age 10 or 11, Pinholster was living in boy's homes and juvenile halls. He spent six months when he was 12 in a state mental institution for emotionally handicapped children. By the time he was 18, Pinholster was in county jail, where he was beaten badly. Brashear suspected that the beating caused Pinholster's epilepsy, for which he has been prescribed medication. After a stint in state prison, Pinholster returned home but acted "unusual" and had trouble readjusting to life. *Id.,* at 7405.

Pinholster's siblings were "basically very good children," although they would get into trouble. *Id.,* at 7401. His brother, Terry, had been arrested for drunk driving and his sister, Tammy, for public intoxication. Tammy also was arrested for drug possession and was self-destructive and "wild." *Ibid.* Pinholster's eldest brother, Alvin, died a fugitive from California authorities.[19]

In addition to Brashear's penalty-phase testimony, Pinholster had previously presented mitigating evidence during the guilt phase from his brother, Terry. Terry testified that Pinholster was "more or less in institutions all his life," suffered from epilepsy, and was "more or less" drunk on the night of the murders. 42 *id.,* at 6015, 6036.

After considering this aggravating and mitigating evidence, the jury returned a sentence of death. The state

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[19] JUSTICE SOTOMAYOR criticizes Brashear's testimony as "self-interested," *post*, at 31, but the whole premise of the family-sympathy defense is *the family's interest*. She similarly makes much of the fact that the prosecutor "belittle[d]" Brashear's testimony in closing argument. *Post*, at 33. We fail to see the point. Any diligent prosecutor would have challenged whatever mitigating evidence the defense had put on. And, we would certainly not expect the prosecutor's closing argument to have described the evidence in the light most favorable to Pinholster. But see *ibid.*, n. 26.

trial court found that the jury's determination was "supported overwhelmingly by the weight of the evidence" and added that "the factors in aggravation beyond all reasonable doubt outweigh those in mitigation." Clerk's Tr. 1184, 1186.

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There is no reasonable probability that the additional evidence Pinholster presented in his state habeas proceedings would have changed the jury's verdict. The "new" evidence largely duplicated the mitigation evidence at trial. School and medical records basically substantiate the testimony of Pinholster's mother and brother. Declarations from Pinholster's siblings support his mother's testimony that his stepfather was abusive and explain that Pinholster was beaten with fists, belts, and even wooden boards.

To the extent the state habeas record includes new factual allegations or evidence, much of it is of questionable mitigating value. If Pinholster had called Dr. Woods to testify consistently with his psychiatric report, Pinholster would have opened the door to rebuttal by a state expert. See, *e.g.*, *Wong* v. *Belmontes*, 558 U. S. ___, ___ (2009) *(per curiam)* (slip op., at 10–12) (taking into account that certain mitigating evidence would have exposed the petitioner to further aggravating evidence). The new evidence relating to Pinholster's family—their more serious substance abuse, mental illness, and criminal problems, see *post*, at 22—is also by no means clearly mitigating, as the jury might have concluded that Pinholster was simply beyond rehabilitation. Cf. *Atkins* v. *Virginia*, 536 U. S. 304, 321 (2002) (recognizing that mitigating evidence can be a "two-edged sword" that juries might find to show future dangerousness).

The remaining new material in the state habeas record is sparse. We learn that Pinholster's brother Alvin died of

suicide by drug overdose, and there are passing references to Pinholster's own drug dependency. According to Dr. Stalberg, Pinholster's "school records" apparently evidenced "some degree" of brain damage. App. to Brief in Opposition 219. Mostly, there are just a few new details about Pinholster's childhood. Pinholster apparently looked like his biological father, whom his grandparents "loathed." Pet. for Writ of Habeas Corpus in No. S004616 (Cal.), Exh. 98, p. 1. Accordingly, whenever his grandparents "spanked or disciplined" the kids, Pinholster "always got the worst of it." *Ibid.* Pinholster was mostly unsupervised and "didn't get much love," because his mother and stepfather were always working and "were more concerned with their own lives than the welfare of their kids." *Id.,* at 2. Neither parent seemed concerned about Pinholster's schooling. Finally, Pinholster's aunt once saw the children mixing flour and water to make something to eat, although "[m]ost meals consisted of canned spaghetti and foods of that ilk." *Id.,* at 1.

Given what little additional mitigating evidence Pinholster presented in state habeas, we cannot say that the California Supreme Court's determination was unreasonable. Having already heard much of what is included in the state habeas record, the jury returned a sentence of death. Moreover, some of the new testimony would likely have undercut the mitigating value of the testimony by Pinholster's mother. The new material is thus not so significant that, even assuming Pinholster's trial counsel performed deficiently, it was necessarily unreasonable for the California Supreme Court to conclude that Pinholster had failed to show a "substantial" likelihood of a different sentence. *Richter*, 562 U. S., at ___ (slip op., at 22) (citing *Strickland*, 466 U. S., at 693).

3

As with deficiency, the Court of Appeals found this case

to be "materially indistinguishable" from *Terry Williams* and *Rompilla* v. *Beard*, 545 U. S. 374 (2005). 590 F. 3d, at 684. But this Court did not apply AEDPA deference to the question of prejudice in those cases; each of them lack the important "doubly deferential" standard of *Strickland* and AEDPA. See *Terry Williams*, 529 U. S., at 395–397 (reviewing a state-court decision that did not apply the correct legal standard); *Rompilla*, *supra,* at 390 (reviewing *Strickland* prejudice *de novo* because the state-court decision did not reach the question). Those cases therefore offer no guidance with respect to whether a state court has *unreasonably* determined that prejudice is lacking. We have said time and again that "an *unreasonable* application of federal law is different from an *incorrect* application of federal law." *Richter*, *supra*, at ___ (slip op., at 11) (internal quotation marks omitted). Even if the Court of Appeals might have reached a different conclusion as an initial matter, it was not an unreasonable application of our precedent for the California Supreme Court to conclude that Pinholster did not establish prejudice.[20]

* * *

The judgment of the United States Court of Appeals for the Ninth Circuit is reversed.

It is so ordered.

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[20] Because Pinholster has failed to demonstrate that the adjudication of his claim based on the state-court record resulted in a decision "contrary to" or "involv[ing] an unreasonable application" of federal law, a writ of habeas corpus "shall not be granted" and our analysis is at an end. 28 U. S. C. §2254(d). We are barred from considering the evidence Pinholster submitted in the District Court that he contends additionally supports his claim. For that reason, we need not decide whether §2254(e)(2) prohibited the District Court from holding the evidentiary hearing or whether a district court may ever choose to hold an evidentiary hearing before it determines that §2254(d) has been satisfied.