20-826 BROWN V. DAVENPORT

DECISION BELOW: 964 F.3d 448

LOWER COURT CASE NUMBER: 17-2267

QUESTION PRESENTED:

In *Brecht v. Abrahamson*, 507 U.S. 619 (1993), the Court held that the test for determining whether a constitutional error was harmless on habeas review is whether the defendant suffered "actual prejudice." Congress later enacted 28 U.S.C. § 2254(d)(1), which prohibits habeas relief on a claim that was adjudicated on the merits by a state court unless the adjudication "resulted in a decision that was contrary to, or involved an unreasonable application of, clearly established Federal law." Although the Court has held that the *Brecht* test "subsumes" § 2254(d)(1)'s requirements, the Court declared in *Davis v. Ayala*, 576 U.S. 257, 267 (2015), that those requirements are still a "precondition" for relief and that a state-court harmlessness determination under *Chapman v. California*, 386 U.S. 18 (1967), still retains "significance" under the *Brecht* test. The question presented is:

May a federal habeas court grant relief based *solely* on its conclusion that the *Brecht* test is satisfied, as the Sixth Circuit held, or must the court also find that the state court's *Chapman* application was unreasonable under

§ 2254(d)(1), as the Second, Third, Seventh, Ninth, and Tenth Circuits have held?

CERT. GRANTED 4/5/2021