No. 22-5109

In the Supreme Court of the United States

TEDDY BRIAN SANCHEZ,

Petitioner,

v.

RON BROOMFIELD, WARDEN,

Respondent.

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

BRIEF IN OPPOSITION

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CAPITAL CASE

QUESTION PRESENTED

Whether a reasonable jurist could conclude that petitioner did not receive ineffective assistance of counsel during the penalty phase of his capital murder trial.

DIRECTLY RELATED PROCEEDINGS

Superior Court of the State of California, County of Kern:

People v. Sanchez, No. 34638 (Oct. 31, 1988) (judgment of death).

California Supreme Court:

People v. Sanchez, No. S007780 (Dec. 14, 1995) (on automatic appeal, convictions and death sentence affirmed).

In re Sanchez, No. S049502 (Oct. 22, 1997) (petition for writ of habeas corpus denied).

Supreme Court of the United States:

Sanchez v. California, No. 95-9037 (Oct. 7, 1996) (certiorari denied).

United States District Court for the Eastern District of California:

Sanchez v. Chappell, No. 1:97-cv-06134-AWI-SAB (July 23, 2015) (petition for writ of habeas corpus denied).

United States Court of Appeals for the Ninth Circuit:

Sanchez v. Davis, No. 16-99005 (Apr. 22, 2021) (opinion affirming denial of habeas corpus relief)

Sanchez v. Davis, No. 16-99005 (Feb. 10, 2022) (order and amended memorandum affirming denial of habeas corpus relief and denying rehearing and rehearing en banc).

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STATEMENT

1. In February 1987, petitioner Teddy Brian Sanchez and Robert Reyes robbed and murdered Woodrow Tatman, Pet. App. 6-7, "a frail, undernourished, 72-year-old man . . . confined to a wheelchair," *id.* at 266-267. The next day, Sanchez, Reyes, and Joey Bocanegra murdered Joey's parents, Juan and Juanita. *Id.* at 7-8. Sanchez admitted that all three victims had been killed for their Social Security checks. *Id.* at 269, 289-290; *see id.* at 58.

Tatman was discovered dead on the floor of his room at the Bakersfield Inn; his television, radio, and electric skillet were missing. Pet. App. 6, 267. An autopsy revealed that he had suffered "several superficial stab wounds," *id.* at 7, but had died due to "massive blunt force injury to the left chest, . . . consistent with a heel stomp," *id.* at 6-7. Sanchez told Detective Randy Boggs that Tatman had been asleep when Sanchez and Reyes entered Tatman's room to rob him. *Id.* at 7. When Tatman awoke during the robbery, "Reyes pulled Tatman from the bed and stabbed him with a screwdriver." *Id.* Sanchez's statement to Detective Boggs "explained only the superficial stab wounds, not the delivery of the fatal blow." *Id.*

The bodies of Juan and Juanita Bocanegra were found in their home; each had "extensive stab wounds and head injuries," and Juanita had "lengths of fabric tied around her neck and right wrist." Pet. App. 7. "[L]arge amounts of blood" in the hallway and kitchen "showed that a struggle took place throughout the room." *Id.* The coroner determined that the Bocanegras each "died from massive hemorrhaging caused by multiple stab wounds." *Id.*

Extensive evidence tied Sanchez and Reyes to the murder of Tatman, and Sanchez, Reyes, and Joey Bocanegra to the murders of the Bocanegras. The Bocanegras' television was found in Sanchez's room in the Bakersfield Inn, and Sanchez had sold their vacuum to a motel employee. Pet. App. 8, 266. Sanchez also gave several statements to Detective Bob Stratton that connected Sanchez to the murders. Pet. App. 8, 268. And Sanchez made additional incriminating statements to Detective Boggs, a local reporter, and a jailhouse informant. *Id.* at 8, 267-269.

2. The prosecution charged Sanchez and Reyes with first degree murder and robbery of the Bocanegras—with robbery-murder and multiple-murder special circumstances—and with first degree murder and robbery of Tatman, with a robbery-murder special circumstance. Pet. App. 9; *see* Cal. Penal Code §§ 190.2(a)(3), (a)(17)(i). [1] Before trial, the court appointed Dr. Francis Matychowiak to evaluate Sanchez for competence; Dr. Matychowiak deemed Sanchez competent to stand trial. Pet. App. 9. Separately, Sanchez's counsel hired Dr. Theodore Donaldson to assess Sanchez for competence, possible defenses, and disabilities. *Id.* Dr. Donaldson concluded that Sanchez suffered from "no reality deficits" or "thought disorders" and was "a highly sociopathic individual." *Id.* Neither doctor "recommended any additional testing." *Id.*

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[1] The prosecution had also charged Joey Bocanegra with the murders of his parents but later dismissed the charges upon the prosecution's motion. Pet. App. 9. After Sanchez's trial, Reyes pleaded guilty to the first-degree murders of Tatman and the Bocanegras; he was sentenced to "three consecutive sentences of life without the possibility of parole." *Id.* at 9; *see id.* at 150, 297.

Sanchez told a local reporter that he was a "triple murderer," Pet. App. 269, 289-290, *see id* at 50, "who deserved to die," *id*. at 117; *see id*. at 11, 290, so he "wanted to plead guilty to the capital charges," *id*. at 270; *see id*. at 49. *Id*. at 289. Upon the advice of counsel, however, Sanchez instead waived his right to a jury trial as to guilt and special circumstances and agreed to a bench trial. *Id*. at 270-271, 289. The court considered the preliminary hearing transcripts and (by agreement between the parties) additional prosecution evidence. *Id*. at 265, 270-271. The court found Sanchez guilty of all three murders and found only the multiple-murder special circumstance to be true. *Id*. at 5, 265.

At the penalty phase, the prosecution presented the jury with evidence of Sanchez's prior criminal activity, including his 1982 stabbing of a store owner and his attack on an acquaintance who refused Sanchez's demand for money. Pet. App. 269. The prosecution also introduced evidence about the circumstances of the murders. *Id*.

In urging the jury to spare Sanchez's life, defense counsel presented evidence of Sanchez's "dysfunctional and poverty-stricken, migratory family life," which left him "severely hampered" in "his ability to live a productive life." Pet. App. 12, 269. This evidence included testimony that Sanchez's mother abandoned him for a period of time early in his youth, that "Sanchez's mother and stepfather were alcoholics and drug abusers who were violent with each other and their children," and that both died in their thirties of "acute

alcoholism." *Id.* at 13. Nonetheless, the jury returned a sentence of death. *Id.* at 13, 265-266.

On automatic appeal, the California Supreme Court affirmed Sanchez's convictions and sentence. Pet. App. 13, 265. Two years later, the same court rejected Sanchez's petition for writ of habeas corpus and summarily denied all his claims "on the merits," *id.* at 13, 264—including, as relevant here, Sanchez's claim that he had received ineffective assistance of counsel by virtue of his trial attorneys' failure to investigate and present mental impairment evidence at the penalty phase, *id.* at 28.

3. Sanchez then filed a federal habeas petition. Pet. App. 13. The district court denied relief on all of Sanchez's claims. *Id.* at 5, 13; *see id.* at 51-263. The district court explained that "[t]he state court could reasonably have found that defense counsel were not deficient in the decision not to conduct additional investigation of mental state defenses," *id.* at 187, given "a lack of supporting evidence" for a theory of mental impairment, *id.* at 186, and the fact that neither Dr. Donaldson nor Dr. Matychowiak recommended additional psychological testing, *id.* at 186-187. The district court granted a certificate of appealability on three of Sanchez's claims but not on his claim regarding penalty phase mental impairment investigation. *Id.* at 5.

After granting a certificate of appealability on the rest of Sanchez's ineffective assistance of counsel claims, Pet. App. 5, 46, the court of appeals affirmed the district court's denial of habeas relief, *id.* at 6, n.1, 47. The court

of appeals agreed with the district court that Sanchez's trial attorneys' "performance was not deficient" by virtue of failing to investigate and present mental impairment evidence at the penalty phase. *Id.* at 28. The court noted that both Dr. Donaldson and Dr. Matychowiak had evaluated Sanchez and had found no indication of mental impairment that might have supported a plea for leniency nor did either doctor recommend further testing. *Id.* at 34. While Sanchez contended that his trial counsel "should have hired additional experts," *id.*, the court reasoned that "having consulted two doctors who did not provide support for the conclusion that Sanchez was mentally impaired in a way that could provide a defense, counsel was under no duty to continue to search in an unending question to find a supportive expert," *id.* at 35. Moreover, given Dr. Donaldson's conclusion that Sanchez was a "highly sociopathic individual," trial counsel could reasonably have determined that further investigation of Sanchez's mental state would simply "uncover[] more evidence harmful to the defense." *Id.*[2]

Sanchez filed a petition for rehearing and rehearing en banc, which the court of appeals denied. Pet. App. 44.

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[2] Because the court of appeals concluded that the performance of Sanchez's trial counsel "was not deficient," the court declined to "reach the prejudice prong" of the inquiry prescribed in *Strickland v. Washington*, 466 U.S. 668 (1984). Pet. App. 34.

ARGUMENT

Sanchez contends that the court of appeals erred in two respects in denying his ineffective assistance claims: first, by ostensibly "diluti[ng] an attorney's obligation" to investigate organic brain damage, Pet. 21; and second, by declining to issue a certificate of appealability on his claim of "cumulative ineffective assistance at the penalty phase of a capital trial," Pet. 24. Neither argument has any merit. The court of appeals correctly applied well-settled legal principles in rejecting Sanchez's claims, and its decision does not create any conflict of authority or otherwise warrant further review.

1. Sanchez faults the court of appeals for concluding that his "'organic' brain dysfunction was not enough of a red flag to trigger a duty for trial counsel to investigate it for use" at the penalty phase of his trial. Pet. i.; *see id.* at 18-23. In Sanchez's view, the decision below "turns attorneys into automatons who have no need to think for themselves" because it ostensibly "limit[s] counsel's duty to think independently" of expert witnesses. *Id.* at 18.

That argument is mistaken in several respects. Most notably, Sanchez's trial attorneys *did* investigate his alleged mental deficiencies: both Dr. Matychowiak and Dr. Donaldson evaluated Sanchez and gave no indication either that this theory would be fruitful or that further investigation was necessary. Pet. App. 34-35. Where an attorney's investigation culminates in a "reasonable professional judgment" not to "mount an all-out investigation . . .

in search of mitigating circumstances," such a decision does not constitute deficient performance. *Burger v. Kemp*, 483 U.S. 776, 794 (1987); *see Strickland*, 466 U.S. at 691 ("[C]ounsel has a duty to make reasonable investigations or to make a reasonable decision that makes particular investigations unnecessary."). The decision whether to pursue additional expert testimony in these circumstances is a "strategic choice[]" that deserves "a heavy measure of deference." *Strickland*, 466 U.S. at 691. And when such a claim is raised in a federal habeas proceeding governed by 28 U.S.C. § 2254, the federal court's review is "doubly deferential" to state courts. *Cullen v. Pinholster*, 563 U.S. 170, 202 (2011). "[T]he question is not whether counsel's actions were reasonable," but rather "whether there is any reasonable argument that counsel satisfied *Strickland's* deferential standard." *Harrington v. Richter*, 562 U.S. 86, 105 (2011). "Congress meant this standard to be difficult to meet." *Shinn v. Kayer*, 141 S. Ct. 517, 523 (2020) (per curiam).

Here, the court of appeals rightly determined that the California Supreme Court reasonably could have concluded that Sanchez's trial attorneys did not perform deficiently by declining to undertake a further investigation. The attorneys obtained "two expert reports that came to similar conclusions, neither one of which was helpful to the defense" and gave "no indication" that Sanchez's attorneys should "hire additional experts or run further tests." Pet.

App. 36. This Court's precedent does not suggest—much less "clearly establish[]," 28 U.S.C. § 2254(d)(1)—that further investigation in this situation is required.

Sanchez's arguments to the contrary are unavailing. He first argues that the court of appeals failed to appreciate that, under California law governing state habeas review, the California Supreme Court must have "assum[ed]" that his "factual allegations [were] true" yet still denied him relief. Pet. App. 19; *see id.* at 18-20. As Sanchez acknowledges, *id.* at 19, however, California courts do not assume the truth of "wholly conclusory" factual allegations or legal conclusions. *Pinholster*, 563 U.S. at 188 n.12 (citing *People v. Duvall*, 9 Cal. 4th 464, 474 (1995)). The state court could well have viewed the assertion that Sanchez's trial counsel "knew that" Sanchez's alleged mental impairment "was good mitigation evidence, yet he did not investigate it," Pet. 20, as a conclusory factual allegation or a legal conclusion. And to the extent Sanchez contends that the state court must have credited the declarations from a neuropsychologist and a psychiatrist that he submitted in support of a state habeas petition, *see* Pet. App. 28-29, 32-34, the court of appeals explained that these declarations were not available to his trial counsel, so even if credited, they do not support a finding of deficient performance under *Strickland*, *id.* at 34.

Sanchez next seeks to analogize his case to *Rompilla v. Beard*, 545 U.S. 375 (2005), in which this Court held that an attorney's failure to conduct an adequate penalty-phase investigation violated *Strickland*. Pet. 20. But

Rompilla is not remotely similar to this case: trial counsel there failed to even examine court files regarding the defendant's prior convictions, even though counsel knew those prior convictions would be a focus of the state's penalty-phase argument. 545 U.S. at 383. That is a far cry from Sanchez's attorneys' decision not to pursue additional expert testimony when two experts' evaluations failed to support a mitigation theory. As *Rompilla* recognizes, "reasonably diligent counsel may draw a line when they have good reason to think further investigation would be a waste." *Id.* That is what happened here.

Sanchez faults the decision below for supposedly "assum[ing] that counsel has an understanding of the unhelpful aspects of Dr. Donaldson's report," but not the "helpful portion of it." Pet. 21; *see id.* at 21-22. That is not correct. The court of appeals explained that one additional reason why a competent defense attorney might not pursue further investigation of Sanchez's alleged mental impairment was that it could "potentially uncover[] more evidence harmful to the defense"—i.e., evidence that Sanchez was a "highly sociopathic individual." Pet. App. 35. That remains true even if Dr. Donaldson's report had provided some indication of other significant mental impairment—which it did not. *Id.* This Court has recognized that trial counsel may make a strategic decision to forego additional investigation when it risks unearthing "double edge[d]" evidence of this sort. *Wiggins v. Smith*, 539 U.S. 510, 535 (2003).

Sanchez also contends that the court of appeals made "two factual errors"—first, by seemingly "equat[ing] the borderline personality disorder

found by Dr. Matychowiak with the sociopathic personality found by Dr. Donaldson," and second, by ostensibly "finding that Dr. Donaldson's report was discoverable." Pet. 22; *see id.* at 22-23. Even if Sanchez was correct that the court of appeals made factual errors, that would not be a persuasive reason for this Court to grant plenary review. But Sanchez is not correct in any event. The court did not "equate" borderline personality disorder with sociopathic personality in any medical sense; it merely recognized (correctly) that "neither" of these findings was "helpful to the defense." Pet. App. 36. And while the court of appeals posited that Dr. Donaldson's report could be discoverable in some set of circumstances—supporting Sanchez's trial attorneys' decision not to conduct a further investigation of mental impairment—the court did not squarely address that evidentiary question nor did its ultimate conclusion rest on that ground.

Ultimately, Sanchez's trial counsel urged the penalty phase jury to spare Sanchez's life not because of mental impairment but because of Sanchez's troubled childhood, family turmoil, and difficult life circumstances. Pet. App. 12-13. That strategy proved unsuccessful, but Sanchez has not shown that he received ineffective assistance of counsel in violation of the Sixth Amendment—much less that any reasonable jurist would be compelled to reach that conclusion.

2. Sanchez also urges this Court to grant review to "resolve a long-standing circuit split" regarding whether multiple unprofessional errors by trial

counsel—that is, "cumulative ineffective assistance"—can provide a basis for habeas relief even absent a showing that any individual error caused prejudice. Pet. 24; *see id.* at 24-27. But Sanchez has not shown *any* deficient performance by his trial counsel, let alone multiple independent errors. Sanchez suggests that *if* this Court agrees that his attorneys were deficient for failing to further investigate his alleged mental impairment, then there would be "two claims where trial counsel['s] deficiencies have been found, given that the Ninth Circuit previously found counsel deficient in not objecting to [Detective Boggs's] false testimony." *Id.* at 24; *see id.* at 8. But, for the reasons discussed above, Sanchez's attorneys were not deficient in their penalty-phase investigation. Nor did the court of appeals find deficient performance with respect to Detective Boggs's testimony. *See* Pet. App. 50. While the court noted that Detective Boggs had "erroneously attributed an incriminating statement by Reyes to Sanchez," the court did not discuss whether Sanchez's attorneys were deficient in failing to exclude that statement. *Id.*

There are other reasons why this case does not present an occasion for resolving any alleged circuit conflict regarding cumulative ineffective assistance. Because this case is governed by § 2254(d)(1), Sanchez must show that this Court's existing precedent clearly establishes that a cumulative ineffective assistance claim is cognizable—which it does not, even if Sanchez is correct that a circuit conflict exists. *See Carey v. Musladin*, 549 U.S. 70, 76-77 (2006) (divergence among the lower courts on a question of law "[r]eflect[s] the lack of

guidance from this Court," suggesting that "the state court's decision was not contrary to or an unreasonable application of clearly established federal law"). In addition, while the district court rejected Sanchez's cumulative ineffective assistance claim, Pet. App. 114-116, the court of appeals did not squarely analyze or discuss the issue, perhaps because it found no deficient performance in the first place. To the extent there is any circuit conflict on this issue that may warrant review, the Court should await a case in which the claim is properly presented and passed upon below.[3]

[3] Sanchez asserts that the court of appeals did not grant a certificate of appealability on the issue of cumulative ineffective assistance. Pet. 24. It is unclear whether that is correct: the court of appeals granted a certificate of appealability "on the claims pertaining to ineffective assistance of counsel," Pet. App. 5, which would appear to encompass the cumulative ineffective assistance claim. In any event, the lack of any explicit discussion of such a claim in the decision below—and the absence of any showing of even a single instance of deficient performance here—weigh strongly against granting review on this question.

CONCLUSION

The petition for a writ of certiorari should be denied.

Dated: September 13, 2022

Respectfully submitted

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