

UNITED STATES COURT OF APPEALS  
FOR THE EIGHTH CIRCUIT

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No: 23-1629

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Michael A. Lajeunesse

Petitioner - Appellant

v.

Kris Karberg, Warden

Respondent - Appellee

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Appeal from U.S. District Court for the Southern District of Iowa - Central  
(4:22-cv-00166-RP)

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**JUDGMENT**

Before GRUENDER, KELLY, and GRASZ, Circuit Judges.

This appeal comes before the court on appellant's application for a certificate of appealability. The court has carefully reviewed the original file of the district court, and the application for a certificate of appealability is denied. The appeal is dismissed.

The motion for release pending appeal and motion for appointment of counsel are denied.

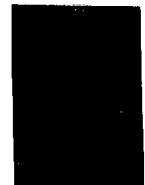
July 25, 2023

Order Entered at the Direction of the Court:  
Clerk, U.S. Court of Appeals, Eighth Circuit.

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/s/ Michael E. Gans

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**ORDER**

The petition for rehearing by the panel is denied.

August 23, 2023

Order Entered at the Direction of the Court:  
Clerk, U.S. Court of Appeals, Eighth Circuit.

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/s/ Michael E. Gans

IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF IOWA  
CENTRAL DIVISION

MICHAEL ALEXANDER LAJEUNESSE,

Petitioner,

v.

KRIS KARBERG,

Respondent.

No. 4:22-cv-00166-RWP

**ORDER DENYING  
PETITION FOR WRIT  
OF HABEAS CORPUS**

Petitioner Michael Alexander Lajeunesse brings this petition for writ of habeas corpus under 28 U.S.C. § 2254, challenging his 2017 convictions for attempted murder, in violation of Iowa Code section 707.11(2016) and willful injury causing serious injury, in violation of Iowa Code section 708.4(1). Pet. ¶¶ 1, 2, ECF No. 1. Respondent has filed a motion to dismiss. ECF No. 23.

For the following reasons, the Court denies the petition for federal habeas corpus relief.

**I. FACTUAL AND PROCEDURAL BACKGROUND**

On direct appeal, the Iowa Court of Appeals outlined the facts relevant to Lajeunesse's conviction:

Lajeunesse met [Jane] Doe at an Alcoholics Anonymous meeting in July 2016. The two became fast friends and then commenced a romantic relationship. At some point after meeting, both relapsed. On October 12, Doe spent the night at Lajeunesse's apartment where they drank an unspecified quantity of beer. The next morning, the two went to Doe's home and shared one-half of a bottle of chilled rum while they talked and watched videos. In the afternoon on the same day, Lajeunesse looked through the text messages on Doe's phone and concluded Doe was having a relationship with another man. Lajeunesse raised the issue with Doe. After some discussion, she decided to go to bed and take a nap.

Doe testified the next thing she remembered was "being punched awake." She testified Lajeunesse punched her, drug her off her bed, put her head through the bedroom wall, ripped her clothes off, drug her by the hair into the bathroom, and threw her into the tub. She testified Lajeunesse then turned on the water in the

shower, grabbed her by the ears, and slammed her into the tub while “punching, slapping, and hitting.” “[H]e ripped the shower curtain down and wrapped it around [her] neck. And then he’d let go and then he’d sit back on the toilet and take a break. He kept saying, ‘I have to kill you now.’” She testified he used a trash-can liner to choke her “in between … periods of punching and hitting and strangling and begging to stop and him saying, ‘No. You have to die.’” She testified she begged him to stop and asked if he was blacked out or knew what he was doing. He replied he was not blacked out and said he knew what he was doing. Doe testified he looked her in the eyes when he said this. She testified her breathing was impaired when he wrapped the shower curtain liner around her neck. Photographs of the injuries corroborated the nature and extent of Doe’s injuries. The medical examiner testified Doe’s injuries were consistent with blunt force trauma and strangulation.

The assault was interrupted when one of Doe’s friends from Alcoholics Anonymous came to the house to check on Doe. The friend entered the home, heard water running in the bathroom, and heard Doe call for help. The friend testified she opened the bathroom door, saw a naked man holding Doe down in the tub, and observed Doe was bleeding. The friend called 911 and ran out of the house. Lajeunesse got dressed, gathered his belongings, and exited the house as police arrived. A police officer testified he saw Lajeunesse start to run and yelled for him to stop.

\*2 Lajeunesse fell down and started crawling. The officer apprehended Lajeunesse. Lajeunesse told the officer he could not remember his name. Lajeunesse urinated on himself in route to the police station.

Lajeunesse testified at trial. He testified he drank heavily that day and ingested two Lorazepam pills to “chill out.” He testified he was hurt and angry because he and Doe talked about her cheating on him. He testified she went to bed, and he borrowed her car, took the dog, and “went riding around.” He drove to work, spoke to his boss, and agreed to work a Saturday shift. He testified he bought vodka. He did not drink any of the vodka while driving around. He testified he went back to Doe’s house and drank a “gulp out of it, and that’s all I remember.” He testified he blacked out and did not remember anything else until after the assault. He remembered Doe “in the bathtub. She was bleeding … she was hurt pretty bad, and she was in the bathtub, and she told me I had to leave. And I said okay.” He also remembered being “tackled” by an officer.

*State v. LaJeunesse*, No. 17-0507, 2018 WL 1099024, at \*2 (Iowa Ct. App. Feb. 21, 2018).

A jury convicted Lajeunesse of attempted murder, in violation of Iowa Code section 707.11(2016) and willful injury causing serious injury, in violation of Iowa Code section 708.4(1). *Id.* at \*1. His conviction was affirmed on direct appeal. *Id.* The Court noted Lajeunesse asserted pro se claims that had not been preserved and could only be addressed within the framework of an

ineffective assistance of counsel claim. *Id.* at 5. The Court reserved for postconviction proceedings ineffective assistance of counsel claims. *Id.* at 4.

Lajeunesse filed a state postconviction relief action in Polk County Iowa district court. The Iowa Court of Appeals affirmed the district court's conclusion that trial and appellate counsel were not ineffective in failing to impeach the victim's testimony and failing to argue the evidence was insufficient to establish serious injury. *Lajeunesse v. State*, No. 19-1715, 2022 WL 469408 (Ia. Ct. App. Feb. 16., 2022). Lajeunesse filed a second postconviction relief action and the claims were denied by the Iowa Court of Appeals as procedurally barred. *Lajeunesse v. State*, No. 21-0817, 2022 WL 1654831 (Ia. Ct. App. May 25, 2022).

Lajeunesse then brought the instant federal habeas petition pro se under 28 U.S.C. § 2254, alleging four grounds for relief. ECF No. 1 at 6–11. Respondent filed a motion to dismiss. ECF No. 23. The Court granted Lajeunesse's motion for appointment of counsel and directed counsel to file a response to respondent's Motion to Dismiss. Order, ECF No. 41. Counsel and Lajeunesse then asked to have counsel excused from the case. The Court granted those requests, and Lajeunesse was given time to file a pro se response to the motion to dismiss. Order Granting Mot. Withdraw, ECF No. 54.

Lajeunesse has filed a pro se brief in support of his claim. Pet'r's Br., ECF Nos. 60 and 61. Respondent has submitted relevant state court documents. See ECF Nos. 20, 21.

## II. STANDARD OF REVIEW

A federal court may consider an application “for a writ of habeas corpus in behalf of a person in custody pursuant to the judgment of a State court only on the ground that he is in custody in violation of the Constitution or laws or treaties of the United States.” 28 U.S.C. § 2254(a). For claims properly before a federal court, a writ of habeas corpus shall be granted only if the prior 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

(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.

28 U.S.C. § 2254(d) (1) and (2).

“[A]n ‘unreasonable application of’ those holdings must be ‘objectively unreasonable,’ not merely wrong; even ‘clear error’ will not suffice.” *White v. Woodall*, 572 U.S. 415, 419 (2014) (quoting *Lockyer v. Andrade*, 538 U.S. 63, 75–76 (2003)). This “difficult to meet” standard requires a petitioner to demonstrate “that the state court’s ruling on the claim being presented in federal court was so lacking in justification that there was an error well understood and comprehended in existing law beyond any possibility for fairminded disagreement.” *Id.* at 419–20 (quoting *Harrington v. Richter*, 562 U.S. 86, 103 (2011)); *see also Woods v. Etherton*, 136 S. Ct. 1149, 1151 (2016) (per curiam) (reiterating standard).

Federal court review of underlying state court decisions is limited and deferential. *Fenstermaker v. Halvorson*, 920 F.3d 536, 540 (8th Cir. 2019). Except for certain kinds of error that require automatic reversal, even when a state petitioner’s federal rights are violated, “relief is appropriate only if the prosecution cannot demonstrate harmlessness.” *Davis v. Ayala*, 576 U.S. 257, 267 (2015). “Harmlessness” in the context of § 2254 means “the federal court has grave doubt about whether a trial error of federal law had substantial and injurious effect or influence in determining the jury’s verdict.” *Id.* at 267–68 (internal citations omitted). This standard requires “more than a ‘reasonable possibility’ that the error was harmful.” *Id.* at 268. These strict limitations reflect that habeas relief is granted sparingly, reserved for “extreme malfunctions in the state criminal justice systems” and “not as a means of error correction.” *Greene v. Fisher*, 565 U.S. 34, 38 (2011).

### **III. DISCUSSION OF APPLICABLE LAW**

Lajeunesse lists four claims in his 2254 petition: 1) his Fourteenth Amendment rights were violated because there was insufficient evidence that he strangled the victim; 2) the evidence was insufficient to show specific intent—counsel was ineffective for failing to provide evidence of extreme intoxication; 3) prosecutorial misconduct (alleging the medical examiner lied to the jury and objecting to suppression of victim’s medical records); and 4) structural error in being denied transcripts for direct appeal.

Respondent asks for dismissal of the claims because Lajeunesse did not properly exhaust claims three and four through one complete cycle of state court review. Mot. to Dismiss, ECF No. 23 at 1. Respondent contends the claims are procedurally defaulted because Lajeunesse has no further remedy in the Iowa Courts. ECF No. 23 at 2. Respondent contends claims one and two fail because the State presented adequate evidence of Lajeunesse’s guilt. *Id.* at 2. For the following reasons, the Court concludes Lajeunesse is not entitled to federal habeas relief.

#### **A. Sufficiency of the Evidence (Claims One and Two)**

Lajeunesse contends his Fourteenth Amendment rights were violated because there was insufficient evidence: 1) that he strangled the victim and 2) that he had the specific intent to harm the victim.

For sufficient evidence to support a criminal conviction, the Fourteenth Amendment’s Due Process clause requires “evidence necessary to convince a trier of fact beyond a reasonable doubt of the existence of every element of the offense.” *Jackson v. Virginia*, 443 U.S. 307, 316 (1979); *Brende v. Young*, 907 F.3d 1080 (8th Cir. 2018). When a habeas petitioner challenges his conviction on the sufficiency of the evidence, “the relevant question is whether, after viewing the evidence in the light most favorable to the prosecution, *any* rational trier of fact could have found the essential elements of the crime beyond a reasonable doubt.” *Jackson*, 443 U.S. at 319 (citing

*Johnson v. Louisiana*, 406 U.S. 356, 362 (1972), abrogated by *Ramos v. Louisiana*, 140 S. Ct. 1390 (2020)). “*Jackson* leaves juries broad discretion in deciding what inferences to draw from the evidence presented at trial, requiring only that jurors ‘draw reasonable inferences from basic facts to ultimate facts.’” *Coleman v. Johnson*, 566 U.S. 650, 655 (2012) (quoting *Jackson*, 443 U.S. at 319).

“Under *Jackson*, federal courts must look to state law for ‘the substantive elements of the criminal offense,’ but the minimum amount of evidence that the Due Process Clause requires to prove the offense is purely a matter of federal law.” *Coleman*, 566 U.S. at 655 (quoting *Jackson*, 433 U.S. at 324 n.16) (citation omitted). Once a jury makes a determination, “the only question under *Jackson* is whether that finding was so insupportable as to fall below the threshold of bare rationality.” *Id.* at 656; *see also United States v. Manning*, 738 F.3d 937, 944–45 (8th Cir. 2014). Under AEDPA’s “twice-deferential” standard of review, a “state-court decision rejecting a sufficiency challenge may not be overturned on federal habeas unless the ‘decision was objectively unreasonable.’” *Parker v. Matthews*, 567 U.S. 37, 43 (2012) (quoting *Cavazos v. Smith*, 565 U.S. 1, 2 (2011) (per curiam)); *see also Coleman*, 566 U.S. at 651 (“We have made clear that *Jackson* claims face a high bar in federal habeas proceedings because they are subject to two layers of judicial deference.”); *Nash v. Russell*, 807 F.3d 892, 897 (8th Cir. 2015) (applying *Jackson*’s “narrow standard of review,” explaining that, under AEDPA, a court “may grant relief only if [it] find[s] the [state court’s] conclusion that the evidence satisfied the *Jackson* sufficiency of the evidence standard both incorrect and unreasonable” and rejecting a habeas challenge to the sufficiency of the evidence (quotation marks and citation omitted)).

This Court will therefore uphold the Iowa Court’s determination regarding sufficiency of the evidence unless the decision was incorrect and objectively unreasonable.

On direct appeal, the Iowa Court of Appeals found sufficient evidence supported the jury's determination that Lajeunesse had the specific intent to strangle Doe, and that he attempted to do so:

Here, there was sufficient evidence to prove both specific intent and strangulation. There was direct evidence of specific intent: Doe testified LaJeunesse told her he realized what he was doing and repeatedly told her he was going to kill her and she had to die. *See State v. Stigler*, No. 16-1495, 2017 WL 3525168, at \* 3 (Iowa Ct. App. Aug. 16, 2017) ("Finally, Mr. Stigler attacked Ms. O'Connell in at least three separate incidents, with pauses in between, resulting in [fifteen] lacerations. This, combined with his repeated statements that he would kill her if she kept lying, which were admitted by Mr. Stigler and confirmed by both Ms. O'Connell and Ms. Johnson, suggest he was aware of his actions. He intended for those actions to cause the death of Ms. O'Connell."). There was also circumstantial evidence of specific intent: the nature and extent of Doe's injuries. Doe testified about the nature and extent of her injuries. She testified her breathing was impaired. The medical examiner testified Doe's injuries were consistent with strangulation. *See State v. Sisco*, No. 16-1170, 2017 WL 3505294, at \*3 (Iowa Ct. App. Aug. 16, 2017) ("We have previously held strangulation creates a substantial risk of death ... The State's expert provided testimony indicating the strangulation, to the point D.R. was unable to breathe and wanted to 'just let go,' created a substantial risk of death and a serious injury."); *State v. Kimbrough*, No. 16-1280, 2017 WL 2876244, at \*2 (Iowa Ct. App. July 6, 2017) (concluding for purposes of Iowa Code section 708.2A strangulation did not require a loss of consciousness).

In contrast, there was not strong evidence of intoxication sufficient to preclude the formation of intent.

*LaJeunesse*, 913 N.W.2d at \*3.

Viewing the evidence in the light most favorable to the prosecution, *any* rational trier of fact could have found the essential elements of the crime beyond a reasonable doubt. The Iowa Court of Appeals correctly determined there was sufficient evidence of specific intent and of strangulation to support the jury's verdict. Relief on these claims is denied.

#### **B. Prosecutorial Misconduct (Claim Three)**

Lajeunesse contends the prosecution violated his rights by: 1) hiring the medical examiner to "lie" to the jury and 2) by suppressing the victim's medical records. He contends he raised these

claims in postconviction relief proceedings. ECF No. 1 at 9–10. He contends the Iowa Court of Appeals denied relief on the claims on April 25, 2022.

On May 25, 2022, the Iowa Court of Appeals affirmed the dismissal of Lajeunesse’s second postconviction relief application, outlining the procedural history of the claims as follows:

On direct appeal, as noted, Lajeunesse raised multiple other claims including ineffective-assistance claims relating to prosecutorial misconduct and “deceit and collusion” by defense counsel. *See Lajeunesse*, 2018 WL 1099024, at \*5. Because he did not sufficiently develop the claims, we preserved them for a possible PCR proceeding. *Id.* at \*6.

Lajeunesse raised some of these same claims during his first PCR proceeding. However, with the aid of counsel, a second amended application for PCR was filed on May 13, 2019, and two counts identified the issues—trial counsel was ineffective in failing to (1) properly investigate the case, properly cross-examine the victim, and contradict the State’s evidence that the victim’s injuries were life threatening; and (2) challenge the sufficiency of the evidence as it related to whether the victim’s injuries rose to the level of a serious injury. After a hearing on the merits, the first PCR court denied relief upon the issues in the second amended application but did not rule upon any other issues. Lajeunesse, pro se, moved for expanded findings on the claims, but his counsel filed a notice of appeal before the district court ruled on the motion.

*Lajeunesse v. State*, 979 N.W.2d 314 (Iowa Ct. App. 2022).

Lajeunesse’s second postconviction relief action raised claims of ineffective assistance of criminal trial counsel in relation to prosecutorial misconduct (centering on suppression of the complaining party’s medical records) and collusion between trial counsel and the State regarding expert testimony of the medical examiner. The Iowa Court of Appeals determined the claims were procedurally barred. *Id.* The Court therefore affirmed dismissal of Lajeunesse’s second postconviction relief application.

Generally speaking, “when a state court [has] declined to address a prisoner’s federal claim[ ] because” of “a state procedural requirement,” federal courts treat it as procedurally defaulted and will not review it either. *Hartman v. Payne*, 8 F.4th 733, 736 (8th Cir. 2021), *cert. denied*, 142 S. Ct. 1119 (2022) quoting *Coleman v. Thompson*, 501 U.S. 722, 729–30 (1991); *see*

also *Martinez v. Ryan*, 566 U.S. 1, 9 (2012) (explaining that the state procedural requirement must be “a nonfederal ground adequate to support the judgment” and “firmly established and consistently followed”). Lajeunesse contends his claims were “preserved” by the Iowa Court of Appeals during direct review. ECF No. 61 at 1. The Iowa Court of Appeals reserved making any determination as to the merits of those claims until a record was more fully presented in state postconviction proceedings. Reservation of ruling on the issues did not by itself, however, preserve the issue for later federal review. *See Ellison v. Rogers*, 484 F.3d 658, 661 (3d Cir. 2007).

Because Lajeunesse’s claims were procedurally defaulted, this Court will only consider them if Lajeunesse can “demonstrate cause for the default and actual prejudice as a result of the alleged violation of federal law or demonstrate that failure to consider the claims will result in a fundamental miscarriage of justice.” *Thomas v. Payne*, 960 F.3d 465, 473 (8th Cir. 2020) quoting *Coleman*, 501 U.S. at 750. Lajeunesse fails to demonstrate cause for the default, actual prejudice, or a fundamental miscarriage of justice. *See Thomas*, 960 F.3d at 473 (limiting instances where ineffective assistance of counsel could potentially constitute cause for default). Lajeunesse cannot show that, without a federal hearing, a fundamental miscarriage of justice would occur; to do so, he would have to establish by a preponderance of the evidence that “no reasonable juror would have found [him] guilty beyond a reasonable doubt.” *Schlup v. Delo*, 513 U.S. 298, 327, (1995).

 Given the strength of the state’s case against Lajeunesse, the Court is sufficiently confident in the result of his trial. Relief on this claim is denied.

#### **C. Denial of Transcripts on Direct Appeal (Claim Four)**

Lajeunesse contends his rights were violated because he was not given access to transcripts for use on direct appeal. This claim fails for substantive and procedural reasons. The Court first addresses the substance of Lajeunesse’s claim. *See Iromuanya v. Frakes*, 866 F.3d 872, 877 (8th

Cir. 2017) *citing Barrett v. Acevedo*, 169 F.3d 1155, 1162 (8th Cir. 1999) (holding that while normally procedural issues should be resolved first, judicial economy sometimes dictates reaching the merits if the merits are more easily resolvable).

Lajeunesse states he was denied transcripts for a direct appeal. ECF No. 1 at 11. When state law permits a direct appeal, “the State must provide an indigent defendant with a transcript of prior proceedings when that transcript is needed for an effective defense or appeal.” *Britt v. North Carolina*, 404 U.S. 226, 227 (1971); *see also Griffin v. Illinois*, 351 U.S. 12, 19 (1956) (per curiam). The court is only required to provide an indigent defendant with “a record of sufficient completeness.” *Mayer v. City of Chicago*, 404 U.S. 189, 194-95 (1971) (internal quotation marks omitted).

Lajeunesse was represented by counsel on direct appeal, and his attorney’s access to the trial transcripts “would appear to fulfill any need for the transcripts on direct appeal.” *In re Credico*, 694 F. App’x 102, 103 (3d Cir. 2017) *citing Norvell v. State of Ill.*, 373 U.S. 420, 424, (1963) (if an indigent defendant is represented by counsel, the state “may rest on the presumption that he who had a lawyer at the trial had one who could protect his rights on appeal”). The right to address the court with a *pro se* brief does not necessarily imply the right to be provided with all documents a defendant might deem necessary to file such a brief. *Jackson v. Smith*, No. CV 17-2354 (JRT/BRT), 2018 WL 626530, at \*7 (D. Minn. Jan. 30, 2018).

Lajeunesse’s counsel had access to the trial transcript and cited it extensively in the brief filed in support of Lajeunesse’s direct appeal. ECF No. 21-6. Lajeunesse fails to articulate how his rights were affected by limited access to the trial record on direct appeal. Lajeunesse fails to show any violation of his rights in not having a separate copy of the transcript.

Cannot argue that  
you cannot access the  
transcript by providing  
court with right to  
accessing without a  
copy

Lajeunesse's claim is also barred for procedural reasons. The state court records establish that only very limited claims were presented to the state court sufficient to satisfy exhaustion requirements and allow review by this Court. This claim does not appear to have been presented sufficient to meet exhaustion standards.

Before federal courts may review a § 2254 petition, a petitioner must allege his state court conviction violates "the Constitution or laws or treaties of the United States." 28 U.S.C. § 2254(a). "[F]ederal habeas corpus relief does not lie for errors of state law." *Estelle v. McGuire*, 502 U.S. 62, 67 (1991) (quoting *Lewis v. Jeffers*, 497 U.S. 764, 780 (1990)).

Federal habeas claims may be reviewed only after they have been exhausted in the state court. 28 U.S.C. § 2254(b)(1)(A). The purpose of exhaustion is to give "the State the 'opportunity to pass upon and correct' alleged violations of its prisoners' federal rights." *Baldwin v. Reese*, 541 U.S. 27, 29 (2004) (internal quotations omitted). "This rule of comity reduces friction between the state and federal court systems by avoiding the 'unseemliness' of a federal district court overturning a state court conviction without the state courts having had an opportunity to correct the constitutional violation in the first instance." *Id.* State courts must have at least one full and fair opportunity to resolve any federal issue. *O'Sullivan v. Boerckel*, 526 U.S. 838, 845 (1999).

Exhaustion requires the petitioner to "fairly present" his claim in each appropriate state court (including a state supreme court with powers of discretionary review), thereby alerting that court to the federal nature of the claim." *Baldwin v. Reese*, 541 U.S. 27, 29 (2004). To fairly present a federal claim to the state courts, the petitioner must refer to "a specific federal constitutional right, a particular constitutional provision, a federal constitutional case, or a state case raising a pertinent federal constitutional issue" in a claim before the state courts." *Murphy v. King*, 652 F.3d 845, 849 (8th Cir. 2011) (quoting *McCall v. Benson*, 114 F.3d 754, 757 (8th Cir. 1997)). The claim presented to the federal court must be based on "the same facts and legal

Dated this 16th day of March, 2023.

*Robert W. Pratt*

ROBERT W. PRATT, Judge  
U.S. DISTRICT COURT

**Additional material  
from this filing is  
available in the  
Clerk's Office.**