

OCTOBER TERM, 2024

No. _____

IN THE SUPREME COURT OF THE UNITED STATES

Harvey Miguel Robinson,
Petitioner,

v.

**Secretary, Pennsylvania Department of Corrections;
Superintendent, Phoenix SCI;
Superintendent, Rockview SCI;
Lehigh County District Attorney,**
Respondents.

On Petition for Writ of Certiorari to the
United States Court of Appeals for the Third Circuit

PETITION FOR A WRIT OF CERTIORARI

— CAPITAL CASE —

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CAPITAL CASE

QUESTIONS PRESENTED

(1) Whether, under *Simmons v. South Carolina*, 512 U.S. 154 (1994), a court may, in the course of instructing the jury that a life sentence means life without parole, also instruct the jury that the Legislature may change that law and thus provide parole eligibility.

(2) Whether, in light of *Wilson v. Sellers*, 584 U.S. 122 (2018), when a state court has provided a reasoned opinion explaining its decision, a federal habeas court may substitute its own reasons justifying the state court's decision, even where those reasons contradict the state court's actual, specific reasoning. The federal circuit courts of appeals are divided on this question.

CORPORATE DISCLOSURE STATEMENT

No party is a corporation.

RELATED PROCEEDINGS

Order, *Commonwealth v. Robinson*, No. 1994/55, 56, 58 (Ct. Com. Pl. Lehigh Cnty. Pa. June 29, 2001) (209a)¹

Opinion, *Commonwealth v. Robinson*, 864 A.2d 460 (Pa. 2004) (135a)

Order, *Robinson v. Pennsylvania*, 546 U.S. 983 (2005) (277a)

Order, *Commonwealth v. Robinson*, No. 1994/56, 58 (Ct. Com. Pl. Lehigh Cnty. Pa. June 21, 2012)

Opinion, *Commonwealth v. Robinson*, 82 A.3d 998 (Pa. 2013)

Opinion, *Robinson v. Beard, et al.*, No. 2:06-cv-00829 (E.D. Pa. Sept. 8, 2020) (28a)

Order, *Robinson v. Beard, et al.*, No. 2:06-cv-00829 (E.D. Pa. June 10, 2021) (10a)

Opinion of the Court, *Robinson v. Sec’y, Pa. Dep’t of Corr., et al.*, No. 21-9001 (3d Cir. Apr. 4, 2024) (1a)

¹ References to the Appendix are cited as ____ a.

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PETITION FOR A WRIT OF CERTIORARI

Petitioner Harvey Miguel Robinson respectfully requests that a writ of certiorari issue to review the decision of the United States Court of Appeals for the Third Circuit, which affirmed the district court's denial of habeas relief.

OPINIONS BELOW

The opinion of the court of appeals (1a–6a) is reported at 97 F.4th 985 (3d Cir. 2024). The state-court opinion (135a–202a) is reported at 864 A.2d 460 (Pa. 2004).

JURISDICTION

The court of appeals issued its opinion on April 4, 2024. The court of appeals denied a petition for rehearing and rehearing en banc on July 16, 2024 (203a). The jurisdiction of this Court is invoked under 28 U.S.C. § 1254(1).

CONSTITUTIONAL PROVISION AND STATUTE INVOLVED

The Fourteenth Amendment to the United States Constitution provides, in pertinent part:

No State shall . . . deprive any person of life, liberty, or property, without due process of law

Title 28 U.S.C. § 2254 provides, in pertinent part:

(d) An application for a writ of habeas corpus on behalf of a person in custody pursuant to the judgment of a State court shall not be granted with respect to any claim that was adjudicated on the merits in State court proceedings 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

(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.

INTRODUCTION

After the jurors had received their penalty-phase instructions, just as they were to be sent back to deliberate, the foreperson asked the judge whether life imprisonment meant life without the possibility of parole. The judge responded that such was the law at present, but then reversed any assurance of parole ineligibility by instructing the jurors that the Legislature could change that law.

On direct appeal, the Pennsylvania Supreme Court rejected Harvey Miguel Robinson's *Simmons* claim and affirmed his sentence of death. In federal habeas, the Third Circuit affirmed the district court's denial of relief on the *Simmons* claim, but in doing so the Third Circuit did not examine the state court's actual reasons for denying *Simmons* relief. Instead, the reasoning the Third Circuit supplied was not only absent from both the state court's reasoned opinion and the Commonwealth's briefing, it actually *contradicted* the state court's reasoning.

STATEMENT OF THE CASE

In October 1994, Mr. Robinson was tried by a jury in the Court of Common Pleas for Lehigh County, Pennsylvania, on three separate informations, each of which charged him with criminal homicide, for the deaths of Joan Burghardt, Charlotte Schmoyer, and Jessica Jean Fortney. *Commonwealth v. Robinson*, Nos. 55, 56, 58/1994 (Lehigh Ct. Com. Pl., Crim. Div.). On November 8, 1994, the jury found Mr. Robinson guilty of three counts of murder in the first degree and related charges.

At both the guilt and the penalty phases, the Commonwealth presented a wealth of evidence from which the jury could infer future dangerousness, *see Commonwealth v. Robinson*, 864 A.2d 460, 471–78 (Pa. 2004), and, as detailed in Section

I below, the prosecutor's penalty-phase argument accentuated the clear implication of that evidence. In addition to presenting evidence about the three murders of which he was convicted, the Commonwealth presented evidence of Mr. Robinson's repeated, unsuccessful attempts to kill Denise Sam-Cali, who offered vivid testimony, as well as evidence of several other assaults and burglaries.

Immediately after being charged at the penalty phase, before leaving the courtroom, the jury specifically asked the court about the meaning of a life sentence:

MR. HAEDRICH: On the life in prison, is that without parole, just so we're sure? Would there be a chance of parole if it was life in prison?

THE COURT: I don't see how I can guarantee—that's the present law. But what if the legislature changes the law? I can't guarantee that. That's the way the law is now.

MR. HAEDRICH: Just so we know, Your Honor.

THE COURT: Who knows two years from now if they'll change the law. I can't tell you.

351a–352a.

The prosecutor immediately asked for a sidebar conference, at which point the judge speculated, "I must have misspoken somewhere." 352a. At sidebar, both the prosecutor and Mr. Robinson's counsel argued to the court that the court's instruction was improper and that the court needed to instruct the jury that "life is life." *Id.* After the sidebar, the court said to the jury, "I'm to tell you, and it's accurate, 'Life is life.' There won't be any parole. Life is life." 353a. The jury then sentenced Mr. Robinson to death.

After being sentenced to death, Mr. Robinson filed post-sentence motions, which included a *Simmons* claim. The Lehigh County Court of Common Pleas held

evidentiary hearings on Mr. Robinson’s post-sentencing motions in 1998 and 1999. On June 29, 2001, the trial court vacated two of Mr. Robinson’s death sentences, Nos. 55 and 56 of 1994, while affirming the third, No. 58 of 1994. The trial court denied relief in all other respects, including on the *Simmons* claim. 275a–276a. Because Mr. Robinson was a juvenile at the time of No. 56, the court subsequently resentenced him to life without possibility of parole in that case. In No. 55, Mr. Robinson was resentenced to life through a negotiated settlement.

On December 30, 2004, the Pennsylvania Supreme Court affirmed the post-sentencing decision of the lower court, affirming all three first degree murder convictions and related convictions and vacating two of the death sentences. *Commonwealth v. Robinson*, 864 A.2d 460, 471 (Pa. 2004). In so doing, as further discussed below, the court denied Mr. Robinson’s *Simmons* claim. *Id.* at 514–16; 189a–191a. Mr. Robinson’s subsequent petition for a writ of certiorari raised a *Simmons* claim, 278a–320a, but that petition raised a number of other constitutional claims, and the *Simmons* argument did not focus, as this petition does, on (a) just how constitutionally problematic the judge’s response to a jury question was, and (b) the fact that the judge never retracted or otherwise cured the unconstitutional response. This Court denied the petition. *Robinson v. Pennsylvania*, 546 U.S. 983 (2005); 277a.

Mr. Robinson filed a pro se petition for postconviction relief (“PCRA petition”), which was subsequently amended by counsel. An evidentiary hearing on his PCRA petition was held in December 2010. On June 21, 2012, the PCRA court denied his claims and dismissed his PCRA petition. Mr. Robinson filed a timely notice of appeal.

On December 27, 2013, the Supreme Court of Pennsylvania affirmed the lower court’s denial of relief. *Commonwealth v. Robinson*, 82 A.3d 998, 1000 (Pa. 2013).

On March 24, 2014, Mr. Robinson timely filed his petition for writ of habeas corpus under 28 U.S.C. § 2254, which included a *Simmons* claim. On September 8, 2020, the district court denied the petition and denied COA on all claims. 129a–133a. On October 6, 2020, Mr. Robinson timely moved to alter or amend the judgment under Rule 59(e), including on the *Simmons* claim, but on June 10, 2021, the district court denied the motion. 24a–27a.

Mr. Robinson timely filed a notice of appeal. On April 1, 2022, Mr. Robinson filed an application for a certificate of appealability in the Third Circuit. On August 30, 2022, that court granted COA on the *Simmons* claim, directed the parties to address whether any failure by the trial court to provide a proper *Simmons* instruction constitutes harmless error under *Brecht v. Abrahamson*, 507 U.S. 619 (1993), and invited the parties, in addressing the harmless question, to examine whether the trial court’s reformulated response to the jury question cured any prior lack of a *Simmons* instruction. 7a–8a. After briefing, oral argument was held, after which the district court’s denial of relief was affirmed and Mr. Robinson’s petition for rehearing was denied. 1a–6a; 203a.

REASONS FOR GRANTING THE PETITION

I. ***SIMMONS* HAS NO MEANING IF THE JURY CAN BE INSTRUCTED THAT THE LAW THAT LIFE IMPRISONMENT MEANS LIFE WITHOUT THE POSSIBILITY OF PAROLE MAY CHANGE.**

“Where the State puts the defendant’s future dangerousness in issue, and the only available alternative sentence to death is life imprisonment without possibility

of parole, due process entitles the defendant to inform the capital sentencing jury—by either argument or instruction—that he is parole ineligible.” *Simmons*, 512 U.S. at 178 (O’Connor, J., concurring).² At Harvey Miguel Robinson’s trial for first degree murder, the Commonwealth put his future dangerousness in issue by calling him “a territorial predator” and “somebody who goes out and commits crimes,” and then warning, “*when* he gets out, ladies and gentlemen, watch out.” 5a. The Third Circuit correctly held that “the state court’s contrary holding was unreasonable.” *Id.* But, as explained below, the court’s further holding that the Pennsylvania Supreme Court was “reasonable” in holding “that the sentencing judge answered the juror’s question properly,” 4a, and thus that the trial court “gave a clear *Simmons* instruction,” 6a, is contrary to *Simmons* and progeny.

In *Simmons* and progeny, the need for instruction arose because the prosecution put future dangerousness in issue. Here, not only did the prosecution put future dangerousness in issue, but *the judge himself reinforced the prosecution’s evocation of future dangerousness* by speculating that the law might change and allow parole. The Third Circuit never confronted this problem, stating instead that it “need not decide whether this speculation violated *Simmons* because the judge promptly fixed it.” 6a. But, as explained below, the judge never “fixed” his speculation. Rather, in violation of Mr. Robinson’s rights under the Due Process Clause, he injected, and never clearly retracted, the threat that the law may change. This ran contrary to *Simmons* and

² Justice O’Connor penned the controlling opinion in *Simmons*. *Kelly v. South Carolina*, 534 U.S. 246, 262 n.1 (2002) (Thomas, J., dissenting).

progeny and violated Mr. Robinson’s rights under the Due Process Clause. While the Third Circuit deflected the trial judge’s speculation, the Pennsylvania Supreme Court *embraced* it, expressly finding no error in the statement. *Robinson*, 864 A.2d at 515. That, too, was contrary to *Simmons* and progeny. This Court should grant the petition for writ of certiorari.

In holding that the Pennsylvania Supreme Court’s holding that “there was no error in the instruction given by the trial court” “was not just reasonable, but right,” 3a, 4a, the Third Circuit repeatedly asserts that the trial court “retracted” its speculation about the possibility that the law may change, 2a, 3a, 6a. The Third Circuit buttresses its reasoning by relying on the court’s remark that it “must have misspoken somewhere.” 3a, 6a. But the judge never says anything like, “You must ignore what I just said, which is not a proper instruction. You must not consider the possibility that the law might change.” No retraction ever occurs. In fact, the state court did not hold that a retraction occurred, and the Commonwealth did not argue in its briefing below that “I must have made a mistake somewhere” served as a “retraction.” It would be unreasonable to conclude that all twelve jurors believed that any retraction occurred, either.

One natural reading of the transcript is that the jury believed *both* of the judge’s statements, because they are *not* inherently contradictory: “Life is life. There won’t be any parole” under *current* law, *and* “Who knows two years from now if they’ll change the law,” which suggests that “Life is life” could change at any time.³ Another

³ Even if these statements were read to be inherently contradictory, *Simmons*

natural reading is that, taken together, these instructions (with the prefatory “I’m to tell you”) say that (a) he was saying “Life is life” only because counsel for both sides were telling him he had to, and (b) he was not clearly retracting his speculation that that law could change. The judge was fanning the flames of the jurors’ fear, thus sharpening the prosecution’s powerful evocation of future dangerousness. It was unreasonable beyond any possibility for fairminded disagreement for the Pennsylvania Supreme Court to say that those instructions provided “a clear understanding of . . . parole ineligibility.” *Kelly*, 534 U.S. at 257 (2002). The one question on the foreperson’s mind after hearing the prosecutor’s inflammatory closing, before beginning deliberations—a question there would be no reason to ask were he already certain a death sentence was inevitable—was whether Mr. Robinson could be paroled. The judge effectively told him who knows, he might be.

For the foregoing reasons, the Third Circuit’s idea that the judge’s first statement was ever retracted is an unnatural and unreasonable reading of the transcript. For the reasons that follow, allowing the jury to speculate about, and thus consider, possible future changes in the law runs afoul of *Simmons* and progeny.

First, *Simmons* itself must be read to limit the appropriate jury instruction to the current state of the law. For example, *Simmons* allows that, in addition to parole ineligibility, the jury may be informed “of any truthful information regarding the availability of commutation, pardon, and the like.” *Simmons*, 512 U.S. at 177. The

would not be satisfied, because “[l]anguage that merely contradicts and does not explain a constitutionally infirm instruction will not suffice to absolve the infirmity.” *Francis v. Franklin*, 471 U.S. 307, 322 (1985).

possibility of legislative reform is not “like” commutation or pardon, because it is not existing law; a possible change in the law in the future is not “availab[le]” in the present. Law that does exist is not “like” law that doesn’t. Accordingly, the jury may not be instructed that the law may change in the future. The limitation to instruction on “the current state of the law” is further confirmed by Justice Scalia’s complaint in his *Simmons* dissent:

The notion that the South Carolina jury imposed the death penalty “just in case” *Simmons* might be released on parole seems to me quite farfetched. And the notion that the decision taken on such grounds would have been altered by information on the *current state of the law* concerning parole (which could of course be amended) is even more farfetched.

Simmons, 512 U.S. at 184 (Scalia, J., dissenting) (*italics in original*).⁴

Second, a *Simmons* instruction must be limited to the current state of the law because the whole point of *Simmons* is that the jury understand that parole is *unavailable* and *should not* be a concern. If, however, a court can, as the court did here, instruct the jury that the law is ephemeral, then the *unavailability* of parole becomes meaningless, replaced by the possibility of parole. This is precisely contrary to *Simmons*. Encouraging the jurors to speculate about the law leaves them at best without guidance and at worst with skewed guidance to perform the weighty task at hand, and it makes it more likely they will reach an arbitrary verdict. To advise the jury that the law that is meant to guide it is like the freshly fallen snow—it might melt

⁴ Justice Scalia’s skepticism about the likelihood that the possibility of parole might matter to a jury is refuted by the fact that, in this case, the jury foreperson raised the question as he did.

away as soon as the wind changes—creates a terrible risk that the jurors will vote for death because they believe parole is in fact a possibility. This is especially true in a highly aggravated case like this one, which carries a high risk that the jury will decide based on fear of release and recidivism rather than on a reasoned moral weighing of aggravators and mitigators guided by the law. The jury is effectively choosing between death and life *with* parole, which is the “false choice” that *Simmons* and progeny forbid. *Shafer v. South Carolina*, 532 U.S. 36, 51 (2001). If the jury is applying speculative, counterfactual, imaginary future law where parole is a possibility, the jury has ceased to function as a jury that applies the laws of the Commonwealth—which is precisely the constitutional danger *Simmons* and progeny were designed to guard against.

Here, after the jury convicted Mr. Robinson of three highly aggravated murders, and immediately after the prosecutor powerfully evoked future dangerousness in his argument, at least one juror was worried about the possibility of parole and signaled that concern to the court. *Simmons* has no meaning if the court can tell those jurors that the law around parole ineligibility may change—a statement that surely “rang in the jurors’ ears as they went to deliberate,” 6a—without clearly and affirmatively retracting that statement. But that is exactly what happened here. Under these circumstances, the jurors cannot have had “a clear understanding of . . . parole ineligibility.” *Kelly*, 534 U.S. at 257. The Third Circuit’s contrary conclusion is erroneous under *Simmons* and progeny.

II. THE THIRD CIRCUIT'S DECISION HIGHLIGHTS A CIRCUIT SPLIT CONCERNING WHETHER FEDERAL HABEAS COURTS MAY INVENT THEIR OWN REASONING TO JUSTIFY A STATE COURT'S DECISION, EVEN WHERE THAT REASONING CONTRADICTS THE STATE COURT'S ACTUAL REASONING.

To the extent that the Third Circuit's decision turned on its perception that it must defer to the state court's opinion, *see* 4a ("We review deferentially."), no deference was due because the state court unreasonably applied *Simmons* and progeny. The Pennsylvania Supreme Court found "no error" in the trial court's statement that "although the present state of the law does not allow parole in the circumstances at hand, it cannot predict whether the legislature will decide to change that in the future." *Commonwealth v. Robinson*, 864 A.2d 460, 515 (Pa. 2004); 190a. In effect, the Pennsylvania Supreme Court concluded that it was perfectly all right for the trial court to allow the jury to speculate about (and thus apply) possible future changes in the law. This conclusion was not just wrong, but unreasonable.

In any event, as explained above, the Third Circuit did not actually defer to (or even acknowledge) the state court's reasoning. Instead, it conducted review based on new reasoning on why it perceived no *Simmons* error, which was never raised or addressed by the state court. The Third Circuit's reasoning actually contradicts the state court's, insofar as the Third Circuit wrote that the trial court "retracted" its statement that the law guaranteeing parole ineligibility could change, whereas the state court not only did not perceive a retraction, but affirmatively blessed the trial court's errant speculation.

In supplying its own reasons that could conceivably support the state court's

judgment, the Third Circuit did not acknowledge that it was inventing its own reasoning or contradicting the state court’s reasoning. If it had, it would have had to try to harmonize its choice with this Court’s directive in *Wilson* that “when the last state court to decide a prisoner’s federal claim explains its decision on the merits in a reasoned opinion. . . . , a federal habeas court simply reviews the specific reasons given by the state court and defers to those reasons if they are reasonable,” *Wilson v. Sellers*, 584 U.S. 122, 125 (2018), as well as with the Third Circuit’s existing precedent: “When the state court pens a clear, reasoned opinion, federal habeas courts may not speculate as to theories that ‘could have supported’ the state court’s decision,” *Dennis v. Sec’y, Pa. Dep’t of Corr.*, 834 F.3d 263, 283 (3d Cir. 2016); *see id.* at 281 (“[F]ederal habeas review does not entail speculating as to what other theories could have supported the state court ruling when reasoning has been provided.”).

The Third Circuit’s preexisting precedent forbidding speculation is part of a deep circuit split on that question. The First Circuit agrees that speculation is forbidden where a state court supplies a reasoned decision: “The upshot of the AEDPA habeas regime is that ‘when the last state court to decide a prisoner’s federal claim explains its decision on the merits in a reasoned opinion’—and here, the Rhode Island Supreme Court has done just that—‘a federal habeas court simply reviews the specific reasons given by the state court and defers to those reasons if they are reasonable.’” *Porter v. Coyne-Fague*, 35 F.4th 68, 75 (1st Cir. 2022) (quoting *Wilson*, 584 U.S. at 125 (2018)). So does the Ninth Circuit: “We confine our § 2254(d)(1) analysis to the state court’s *actual* decisions and analysis. . . . Indeed, if we were to defer to some

hypothetical alternative rationale when the state court’s actual reasoning evidences a § 2254(d)(1) error, we would distort the purpose of AEDPA.” *Tamplin v. Muniz*, 894 F.3d 1076, 1086 (9th Cir. 2018) (quoting *Frantz v. Hazey*, 533 F.3d 724, 738 (9th Cir. 2008) (en banc)) (emphasis in original). So too does the Sixth Circuit: “Hewing to *Wilson*, this court recently explained that AEDPA requires a habeas court ‘to review the actual grounds on which the state court relied.’” *Thompson v. Skipper*, 981 F.3d 476, 480–81 (6th Cir. 2020) (quoting *Coleman v. Bradshaw*, 974 F.3d 710, 719 (6th Cir. 2020)). So do the Fourth and Seventh Circuits. *Kelley v. Bohrer*, 93 F.4th 749, 755 (4th Cir. 2024) (“When applying this standard, ‘a federal habeas court simply reviews the specific reasons given by the state court and defers to those reasons if they are reasonable.’” (quoting *Wilson*, 584 U.S. at 125)); *Wilson v. Neal*, 108 F.4th 938, 947 (7th Cir. 2024) (“Federal courts review ‘the specific reasons given by the state court and defer[] to those reasons if they are reasonable.’” (quoting *Wilson*, 584 U.S. at 125)).

The First, Third (though not here), Fourth, Sixth, Seventh, and Ninth Circuits thus follow *Wilson*’s rule that federal habeas review involves examination of the actual, specific reasoning of the state court, and deference to those reasons if they are reasonable. On the other side of the split, notwithstanding *Wilson*’s clear holding, stand the Fifth, Eighth, and Eleventh Circuits.

The Eleventh Circuit has held that

although the Supreme Court’s decision in *Wilson* instructs us to “re-view[] the specific reasons given by the state court and defer[] to those reasons if they are reasonable,” we are not required, in assessing the reasonableness of a state court’s reasons for its decision, to strictly limit

our review to the particular *justifications* that the state court provided. Rather, in order to “give appropriate deference to [the state court’s] decision,” *id.*, having determined the *reasons* for the state court’s decision, we may consider any potential *justification* for those reasons.

Pye v. Warden, Ga. Diagnostic Prison, 50 F.4th 1025, 1035–36 (11th Cir. 2022) (en banc). As the dissent points out, the Eleventh Circuit majority “casts aside, or diminishes to meaninglessness,” *Wilson*’s instruction to examine specific reasons. *Id.* at 1066. The dissent further observes,

If the majority opinion is correct, then *Wilson*’s look-through rule does no work. Whether the majority is saying that we defer only to the ultimate decision of the lower state court, or that we defer to the ultimate decision despite any wrong-beyond-fairminded-disagreement reasoning, examining a state court’s reasoning would be a meaningless, make-work exercise. That is because we could always skip that step and start making up reasons to support the state court’s decision.

Id. “[M]aking up reasons to support the state court’s decision” is exactly what the Third Circuit did here. And doing so defies AEDPA: “In tasking federal courts with determining whether a decision involved, or was based on, certain egregious errors, the statute directs us to examine *how*, or *why*—that is to say, the reasons, if any, for the decision.” *Id.* at 1167.

The Fifth Circuit’s error is similar to the Eleventh’s. The Fifth Circuit characterizes *Wilson*’s rule as “requiring deference to [the last reasoned state-court] *decision* if reasonable.” *Langley v. Prince*, 926 F.3d 145, 159 (5th Cir. 2019) (emphasis added). Here again, the dissent seeks to tether the analysis to *Wilson*’s focus on “specific reasons,” as opposed to the bottom-line decision: “[B]y relying on post hoc rationalizations that cannot be squared with what the state court actually said, the majority departs from the Supreme Court’s recent direction on review of reasoned state-court

decisions.” *Id.* at 174 (citing *Wilson*, 584 U.S. at 125). “The obligation to search for supportive reasoning obtains only when a state court issues a decision unaccompanied by any reasoning from itself or a lower state court.” *Id.* (citing *Wilson*, 584 U.S. at 130–32; *Harrington v. Richter*, 562 U.S. 86 (2011)). “*Richter*’s ‘could have supported’ framework does not apply otherwise.” *Id.* (citing *Wilson*, 584 U.S. at 130–32).

And the Eighth Circuit ignores *Wilson* similarly: “We evaluate the reasonableness of the state court’s ultimate conclusion, not necessarily the reasoning used to justify the decision.” *Zornes v. Bolin*, 37 F.4th 1411, 1415 (8th Cir. 2022).

The animating principle of AEDPA deference is not—as the Fifth, Eighth, and Eleventh Circuits, as well as the Third Circuit below, would have it—affirmance of the state court’s judgment at all costs; it is respect for a state court’s decisionmaking process. *See Shoop v. Hill*, 586 U.S. 45, 48 (2019) (“The statute respects the authority and ability of state courts . . .”). Accordingly, federal courts conducting habeas review must focus on the actual reasons, if any, that state courts provide, and defer to those reasons if reasonable. Inventing reasons that *contradict* the actual, specific reasons that the state court offers, as the Third Circuit did here, does the opposite of what AEDPA deference is meant to do, by *disrespecting* the state court’s actual decisionmaking process. This Court should grant the petition for writ of certiorari to ensure that federal habeas courts accord appropriate respect to state-court decisionmaking.

CONCLUSION

For the reasons set forth above, this Court should grant the petition for writ of certiorari.

Respectfully submitted,

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