No. 25-51

IN THE
Supreme Court of the United States

CHRISTOPHER KLEIN, SUPERINTENDENT, *et al.*,
Petitioners,

v.

CHARLES BRANDON MARTIN,
Respondent.

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

REPLY BRIEF FOR THE PETITIONERS

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REPLY BRIEF OF PETITIONERS

Respondent Charles Brandon Martin argues that the "court of appeals got it right," but that even if not, its "good faith" application of AEDPA and this Court's "*Brady*[1] precedents" should foreclose the ostensibly "extreme intervention" that Petitioners request. Br. in Opp. 1. Mr. Martin has AEDPA backwards.

"[U]ndoing a final state-court judgment" through federal habeas relief is, this Court has stressed, "an extraordinary remedy, reserved for only extreme malfunctions in the state criminal justice system." *Brown v. Davenport*, 596 U.S. 118, 133 (2022) (citation and quotation marks omitted). Because federal habeas review is "not a substitute for ordinary error correction through appeal," a habeas petitioner's burden under AEDPA is extremely high. *Harrington v. Richter*, 562 U.S. 86, 102-03 (2011) (citation omitted).

This Court has emphasized that "an *unreasonable* application of federal law is different from an *incorrect* application of federal law." *Williams v. Taylor*, 529 U.S. 362, 410 (2000). "It is not enough that a federal habeas court, in its independent review of the legal question, is left with a firm conviction that the state court was erroneous." *Lockyer v. Andrade*, 538 U.S. 63, 75 (2003) (citation and quotation marks omitted). Rather, this Court's precedent must *compel* the result, and "even a strong case for relief does not mean the state court's contrary conclusion was unreasonable." *Richter*, 562 U.S. at 102. Federal

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[1] *Brady v. Maryland*, 373 U.S. 83 (1963).

habeas relief is prohibited if "fairminded jurists could disagree on the correctness of the state court's decision"; instead, "[t]he state court decision must be so lacking in justification that there was an error well understood and comprehended in existing law beyond any possibility for fairminded disagreement." *Woods v. Etherton*, 578 U.S. 113, 116-17 (2016) (citations and quotation marks omitted)). And a federal habeas court cannot discharge its obligations under AEDPA by declaring that its contrary assessment of the case is unimpeachably correct. *See Shinn v. Kayer*, 592 U.S. 111, 119 (2020) (reversing where the court of appeals "essentially evaluated the merits *de novo*, only tacking on a perfunctory statement at the end of its analysis asserting that the state court's decision was unreasonable" (citation and quotation marks omitted)).

Here, the decision of the Court of Special Appeals of Maryland was not so lacking in justification that no rational jurist could agree. The court weighed the evidence and, consistent with this Court's precedent, *e.g.*, *Strickler v. Greene*, 527 U.S. 263, 292-96 (1999), reasonably concluded that the suppressed evidence was immaterial given the strength of the State's case against Mr. Martin.

Apparently taking a different view of the impact of the suppressed evidence, the Fourth Circuit panel majority accused the state court of misapplying this Court's precedent by failing to provide a "nuanced analysis of the impact of the suppressed evidence on both sides of the case." App. 26a. But, when explaining how the state court's analysis supposedly fell short, the majority could only misconstrue the trial

evidence and identify specious defense theories that, understandably, the state court did not expressly debunk. Pet. 32-36. Summary reversal is warranted here because the rationales presented by the panel majority and Mr. Martin fall well short of establishing the objective unreasonableness of the state court's decision. At best, they suggest that reasonable jurists could disagree about how the suppressed evidence may have affected the outcome of the trial. Those are the exact circumstances in which AEDPA prohibits habeas relief.

A. Sheri Carter's Testimony Was Far From the Only Evidence Connecting Mr. Martin to the Gatorade Bottle as a Silencer.

Mr. Martin argues that the suppressed computer analysis report was material because it would have impeached Sheri Carter's testimony—which, in his view, "was the linchpin of the state's narrative that the Gatorade bottle was a silencer" and was "the *only* evidence connecting Mr. Martin to the bottle as a silencer." Br. in Opp. 22. He is wrong. Ms. Carter's testimony was neither the "linchpin" of the State's case nor the only evidence that the Gatorade bottle found in Ms. Torok's apartment was a silencer and that Mr. Martin helped create it. Instead, the bottle itself was the centerpiece of the State's case. And Michael Bradley's testimony, along with the DNA evidence found on the bottle, was the critical link between Mr. Martin and the bottle, establishing Mr. Martin's guilt as an accessory before the fact.

The evidence left no doubt that the bottle was a makeshift silencer. It had two layers of tape (white

medical tape covered by gray duct tape) around its mouth pressed into the rectangular shape of a handgun barrel, soot coating the inside, and an apparent bullet hole in the bottom:

App. 442a; *see also* App. 3a, 41a, 444a-445a. Sergeant Richard Alban testified that the bottle resembled a

makeshift silencer. App. 294a-295a. And the prosecutors asked the jury to inspect the bottle and find that it was a silencer. App. 410a, 434a.

Additionally, the bottle's unusual presence on the floor of the victim's apartment established its connection to the shooting. Ms. Torok and her housemate, Jessica Higgs, testified that they did not drink Gatorade, they did not buy Gatorade, they did not have Gatorade in their apartment, and they would not leave an empty bottle on the floor of their well-kept apartment. App. 259a-260a, 275a-277a. Ms. Higgs testified that the bottle was not on the floor when she left for work on the day of the shooting. App. 275a.

Further, Michael Bradley's testimony established that Mr. Martin participated in the assembly of a device using the bottle and tape at Maggie McFadden's house a few hours before the shooting. It was not a coincidence that on the very day Mr. Martin's estranged girlfriend was shot, Mr. Martin was in Ms. McFadden's bedroom with a Gatorade bottle and the same type of white medical tape that was wrapped around the mouth of the bottle found at the crime scene. App. 5a, 8a, 113a-114a, 337a-338a. Thus, even if Ms. Carter's testimony had been impeached, the jury would have found that the bottle device that Mr. Martin constructed (or helped construct) that afternoon was the very same tape-wrapped Gatorade bottle that ended up at Ms. Torok's apartment several hours later. Although the DNA evidence on the Gatorade bottle may not have *directly*

established that the bottle was a silencer,[2] it nevertheless tied Mr. Martin to the bottle device and corroborated Michael Bradley's testimony about the device's origin, its connection to the shooting, and Mr. Martin's involvement in its construction.

Mr. Martin, however, takes a different view. He suggests that had Ms. Carter's testimony been impeached, the State's bottle silencer theory would have disintegrated. Br. in Opp. 21-26. On this view, the jury would have looked at the soot-stained, tape-wrapped Gatorade bottle with an apparent bullet hole in the bottom, heard how Mr. Martin constructed the bottle device on the same afternoon that his estranged girlfriend was shot in the head at her front door, but nonetheless found that the soot-stained, tape-wrapped bottle on the floor of an otherwise pristine apartment just feet from where the victim lay shot had no connection to the shooting.

The state appellate court viewed the strength of the State's case differently, and with good reason. It acknowledged Mr. Martin's contention that Ms. Carter's testimony was an important part of the

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[2] Mr. Martin contends that the evidence petitioners cite "doesn't link Martin to the Gatorade bottle *as a silencer*." Br. in Opp. 24. Then, with bullet points and a divide-and-conquer approach, he argues that each piece of evidence does not, on its own, prove that the bottle was a silencer. Br. in Opp. 24-26. But a jury would not view each piece of evidence on its own, nor do *Brady* and its progeny prescribe that sort of materiality analysis. *See United States v. Bagley*, 473 U.S. 667, 706 (1985) ("Evidence is not introduced in a vacuum; rather, it is built upon." (citation and quotation marks omitted)).

State's case, App. 111a, but it disagreed that discrediting her testimony would have destroyed the State's entire case against him and led to a different outcome, App. 112a-116a. That decision was not "so lacking in justification that there was an error well understood and comprehended in existing [Supreme Court holdings] beyond any possibility for fairminded disagreement." *Richter*, 562 U.S. at 103.

B. Disclosure of the Computer Analysis Report Would Not Have Bolstered the Defense's Theories.

Attempting to demonstrate that the computer analysis report was material, Mr. Martin provides three reasons why, in his view, impeaching Ms. Carter with the report would have "bolstered" his defense at trial. Br. in Opp. 23-24. His arguments are meritless, and the state court's decision was not objectively unreasonable simply because it did not expressly debunk them in its written opinion.

First, Mr. Martin argues that impeaching Ms. Carter might have made "the jury more likely to believe" his "theory that the bottle was a marijuana smoking device." Br. in Opp. 23. But that theory was thoroughly discredited at trial. Pet. 33. And considering the other evidence presented regarding the bottle device's physical characteristics, the circumstances of its creation, and its presence at the crime scene, impeaching Ms. Carter would not have convinced the jury that the bottle was an innocuous smoking device that had nothing to do with the shooting.

In asserting that the State "couldn't explain why Torok's saliva was 'on the mouth' of the supposed

silencer," Br. in Opp. 11, Mr. Martin mischaracterizes the evidence. He suggests that supposed "saliva" on the bottle contained a "DNA profile matching Torok's" profile. Br. in Opp. 23. But the State's DNA expert testified only that Ms. Torok could not be excluded as a possible contributor to the nuclear DNA mixture found on the bottle—not that a full DNA profile conclusively matching hers was found. App. 6a, 98a; Br. in Opp. 7; C.A. J.A. 1997. Nor was there any testimony that the DNA mixture found on the bottle was in fact from saliva, whether Ms. Torok's or anyone else's.[3]

Second, Mr. Martin argues that impeaching Ms. Carter might have bolstered his theory that Ms. McFadden was involved in the crime. Br. in Opp. 23. But there was no evidence that Ms. McFadden was present when the bottle silencer was constructed; to the contrary, Michael Bradley testified that she left for work on the morning of the shooting and returned later that evening, after the shooting occurred. App. 334a, 344a. Even more fundamentally, Ms. McFadden's involvement is beside the point, because the involvement of others in the crime would not diminish Mr. Martin's own culpability. Indeed, the State *conceded* in closing argument that Mr. Martin "didn't pull the trigger himself. . . . [T]he attempted murder was committed by another person." App. 419a. Instead, the State asked the jury to find

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[3] The State's DNA expert agreed that DNA could have been transferred to the mouth of the bottle through saliva, but she testified that she "swabbed the mouth of the bottle together with the adhesive tape" and that DNA from skin cells also "could be a potential source." C.A. J.A. 2004.

Mr. Martin guilty as an accessory before the fact based on the evidence that "he helped make that silencer. He took that tape and he put it on the end of that bottle and stuck it to his gun." App. 410; *see Strickler*, 527 U.S. at 292 ("[P]etitioner's guilt of capital murder did not depend on proof that he was the dominant partner: Proof that he was an equal participant with Henderson was sufficient under the judge's instructions. Accordingly, the strong evidence that Henderson was a killer is entirely consistent with the conclusion that petitioner was also an actual participant in the killing." (footnotes omitted)).

Finally, Mr. Martin argues that "[k]nowing the police had suppressed the computer report, the jury would have had more reason to question the officers' handling of other evidence, like the two tapes that Detective Regan claimed were lost." Br. in Opp. 24. This argument reflects a misapplication of *Brady*. Suppressed "evidence is material only if there is a reasonable probability that, *had the evidence been disclosed to the defense*, the result of the proceeding would have been different." *Bagley*, 473 U.S. at 682 (emphasis added). Thus, the *Brady* materiality analysis presupposes that the evidence would *not* have been suppressed—the reviewing court must assess the likely outcome of the trial in an alternative universe where the evidence at issue *was* disclosed. The misconduct of the suppression itself is not a factor. *See United States v. Agurs*, 427 U.S. 97, 110 (1976) ("If the suppression of evidence results in

constitutional error, it is because of the character of the evidence, not the character of the prosecutor.").[4]

Mr. Martin's inability to persuasively explain how impeaching Ms. Carter's testimony would have "bolstered" his defenses is critical because the primary reason why the panel majority believed that it could discard AEDPA deference was that, in its view, the state appellate court failed to provide a "nuanced" analysis of how the suppressed evidence would have affected not just the State's case but also Mr. Martin's defenses. App. 23a-26a. Faulting the state court for not setting up and rejecting a series of meritless arguments is not a valid justification for rejecting its ultimate *decision* on materiality as objectively unreasonable. Indeed, Mr. Martin never argued to the state appellate court that the suppressed evidence would have affected (1) his "other suspect" defense; (2) Michael Bradley's credibility; (3) testimony that the State mishandled other evidence; or (4) the State's theory regarding Mr. Martin's motive. C.A. J.A. App. 646-650. A state court is not objectively unreasonable for failing to analyze and reject a series of meritless arguments that were never presented to it.

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[4] Mr. Martin also is incorrect to presume that he would be permitted to present evidence of prosecutorial misconduct to the jury. *See Arizona v. Washington*, 434 U.S. 497, 498-99, 511, 516 (1978) (upholding trial court's finding that there was manifest necessity to declare a mistrial when defense counsel made "improper and prejudicial" remarks to the jury that the prosecutor committed "misconduct" by withholding evidence from the defense).

C. The State Court's Decision Was Not an Objectively Unreasonable Application of This Court's *Brady* Precedents.

Mr. Martin argues that "[i]t doesn't matter whether the [state] court correctly articulated the *Brady* standard at the outset" because "it *applied* a sufficiency-of-the-evidence standard" in contravention of *Kyles v. Whitley*, 514 U.S. 419 (1995). Br. in Opp. 31. But petitioners are not arguing that the state court's opinion passes muster under AEDPA merely because it recited the correct legal standards. Rather, its *decision* that, given the strength of the State's case, Mr. Martin had "not met his burden of showing that, had the Computer Analysis been provided to [the defense], there is a reasonable probability that the result of his trial would have been different," App. 115a, was not a manifestly incorrect application of this Court's precedents.

This Court's precedents establish that the strength of the case against the defendant is crucial to assessing materiality. In *Agurs*, for instance, the Court explained that "the omission must be evaluated in the context of the entire record," and "[i]f there is no reasonable doubt about guilt whether or not the additional evidence is considered, there is no justification for a new trial." 427 U.S. at 112-13 (footnote omitted). The Court repeated that principle in *Smith v. Cain*, 565 U.S. 73 (2012), which declared that "evidence impeaching an eyewitness may not be material if the State's other evidence is strong enough to sustain confidence in the verdict." *Id.* at 76 (citing *Agurs*). It applied that principle in *Strickler*, 527 U.S. at 292-96, which held that the petitioner failed to

show *Brady* materiality where "there was considerable forensic and other physical evidence linking petitioner to the crime," and even if suppressed evidence would have "entirely discredited" a key eyewitness, there was not a reasonable probability of a different outcome given that the "record provided strong support for the conclusion that petitioner would have been convicted." The Maryland appellate court employed that same analysis here, concluding that the suppressed evidence did not create a reasonable probability of a different outcome given the strength of the evidence against Mr. Martin.

The state court's decision falls far short of an extreme malfunction of the state criminal justice system. What is extraordinary about this case is the court of appeals' disregard for the deference that AEDPA mandates. Its decision to undo Mr. Martin's final state-court judgment warrants summary reversal.

CONCLUSION

The petition for writ of certiorari should be granted and the judgment of the court of appeals should be summarily reversed.

Respectfully submitted,

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