No. 25-5153

In The Supreme Court of the United States

STEVEN CATLIN,

Petitioner,

v.

EDWARD J. SILVA, ACTING WARDEN,

Respondent.

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

BRIEF IN OPPOSITION

ROB BONTA
Attorney General of California
HELEN H. HONG
Acting Solicitor General
JAMES WILLIAM BILDERBACK II
Senior Assistant Attorney General
IAN FEIN
Deputy Solicitor General
KENNETH N. SOKOLER*
HOLLY D. WILKENS
Supervising Deputy Attorneys General

STATE OF CALIFORNIA
DEPARTMENT OF JUSTICE
1300 I Street, Suite 125
Sacramento, CA 95814
(916) 210-7751
Kenneth.Sokoler@doj.ca.gov
**Counsel of Record*

September 18, 2025

CAPITAL CASE

QUESTION PRESENTED

Whether the court of appeals erred in holding that the California Supreme Court's denial of petitioner's penalty-phase ineffective assistance of counsel claim was not contrary to or an unreasonable application of clearly established federal law.

DIRECTLY RELATED PROCEEDINGS

Supreme Court of the United States:

Catlin v. California, No. 01-8463 (certiorari denied April 1, 2002).

United States Court of Appeals for the Ninth Circuit:

Catlin v. Broomfield, No. 19-99011 (opinion issued December 24, 2024; petition for rehearing denied April 10, 2025) (this case below).

United States District Court for the Eastern District of California:

Catlin v. Davis, No. 1:07-cv-01466-LJO-SAB (judgment entered December 17, 2019) (this case below).

California Supreme Court:

In re Catlin, No. S173793 (second state habeas petition denied March 27, 2013).

In re Catlin, No. S090636 (first state habeas petition denied September 25, 2007).

People v. Catlin, No. S016718 (judgment affirmed July 16, 2001).

Superior Court of the State of California, Kern County:

People v. Catlin, No. 30594 (judgment entered June 6, 1990).

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STATEMENT

Petitioner Steven Catlin was sentenced to death following a trial for the murder of his adoptive mother and his fourth wife, and after sustaining a prior conviction for the murder of his fifth wife. Pet. App. 13a-16a. This petition seeks review of his habeas claim that defense counsel did not adequately represent him in the penalty phase.

1. a. In 1976, Catlin's fourth wife, Joyce, was hospitalized for symptoms that initially resembled the flu. Pet. App. 13a. During the hospitalization, her lungs began to fail. *Id.* After 19 days in the hospital, Joyce died of lung failure. *Id.* An autopsy revealed that her lungs had turned fibrotic and lost their ability to function. *Id.* at 13a-14a.

Several physicians suspected that Joyce had been poisoned with the agricultural herbicide paraquat, but at that time there was no test that could detect the presence of paraquat more than 72 hours after ingestion. Pet. App. 14a. Catlin had access to paraquat as a mechanic for an agricultural company and knew of its lethal qualities. *Id.* Years earlier, he had told a witness that paraquat was undetectable and was an ideal tool for a "perfect murder." *Id.* After Joyce died, Catlin received payments from her two insurance policies, and her credit union's payment-on-death program paid off the debt on a vehicle she and Catlin owned. *Id.*

b. In February 1984, Catlin had a public argument with his fifth wife, Glenna. Pet. App. 15a. A few days later, Glenna became ill, and several weeks later, she died. *Id.* Toxicological testing showed that the cause of death was

paraquat poisoning. *Id.* Catlin received $55,000 from Glenna's life insurance policy. *Id.* At the urging of law enforcement, Glenna's father searched a business space he had shared with Catlin, and found a bottle of paraquat. *Id.* Catlin's fingerprint was on the bottle's cap. *Id.*

c. In December 1984, Catlin visited his adoptive mother, Martha, who was 79 years old. Pet. App. 14a. Four days later, she exhibited signs of serious illness. *Id.* She had a fever, a reddish-purple throat and tongue, and swollen purple lips. *Id.* Two days later, she died. *Id.* Testing revealed she had ingested a significant amount of paraquat. *Id.*

Catlin, the sole beneficiary of Martha's will, had previously expressed concern that she would amend the document to replace him as her beneficiary with a nonprofit organization. Pet. App. 14a, 47a. Evidence later emerged that Catlin was tired of taking care of Martha and driving to visit her, and had said he wished she would "hurry up and die." *Id.*

2. In 1986—before the trial at issue here—Catlin was convicted in Monterey County of the first-degree murder of Glenna. Pet. App. 42a. This petition concerns his subsequent trial in Kern County in 1990, for the murders of Joyce and Martha. *Id.* at 16a. Multiple experts testified at trial that Joyce and Martha were killed by paraquat poisoning. *Id.* at 14a. Catlin testified in his own defense, denying that he poisoned either victim and painting his relationship with his mother in a positive light. *Id.* at 16a. The defense also

presented evidence that Catlin's business ventures were succeeding, in an effort to show that he lacked a financial motive for the crimes. *Id.*

The jury found Catlin guilty of the first-degree murders of Joyce and Martha. Pet. App. 16a. As to Martha's murder, the jury also found true three special circumstances that rendered Catlin eligible for the death penalty: murder for financial gain, murder by poison, and multiple murder. *Id.* at 16a. Catlin admitted that he also had been convicted of Glenna's murder, and thus stipulated to a fourth special circumstance: that he had a prior murder conviction. *Id.* at 16a, 42a.

The special circumstances findings with respect to Martha's murder made Catlin eligible for the death penalty. At the ensuing penalty phase, the State presented evidence that Catlin had also physically assaulted and choked his first wife. Pet. App. 16a. The defense's mitigation evidence focused on Catlin's positive qualities, including his ability to contribute to society and his lack of future dangerousness in prison. *Id.* at 16a, 29a. Several individuals testified about their long and close friendship with Catlin and the guidance and mentorship he provided even after he was incarcerated. *Id.* at 16a, 230a. A woman testified that Catlin saved her son's life. *Id.* at 230a. Prison officials testified that Catlin was a model prisoner, who excelled in the prison's furniture manufacturing unit and provided supervision and motivation for younger inmates. *Id.* An expert on institutional environments opined that

Catlin had adjusted well to prison. *Id.* The jury returned a verdict of death. *Id.* at 16a.

3. The California Supreme Court affirmed the judgment and sentence on direct appeal. Pet. App. 303a-375a. This Court denied Catlin's petition for a writ of certiorari. *Catlin v. California*, 535 U.S. 976 (2002) (No. 01-8463).

4. Catlin filed two state habeas petitions at the California Supreme Court. Pet. App. 17a. Each petition included the claim he now presents here: that his trial attorneys provided ineffective assistance at the penalty phase by failing to investigate and introduce evidence of Catlin's alleged brain damage, childhood trauma, and childhood sexual abuse. *See* Pet. 24-36; Pet. App. 17a, 26a, 224a-225a. When deciding the first petition, the court summarily denied this claim on the merits. Pet. App. 377a. In deciding the second petition, the court denied the claim on procedural grounds, including that it was "barred as repetitive" because it was raised in the first petition. *Id.* at 378a; *see also id.* at 225a.

5. Catlin filed a habeas petition in federal court. The district court denied the petition. Pet. App. 40a-302a. As to the claim at issue here, the court applied the test for ineffective assistance of counsel under *Strickland v. Washington*, 466 U.S. 669 (1984), and the habeas standard of review under 28 U.S.C. § 2254(d). Pet App. 224a-233a. The court held that the California Supreme Court reasonably could have concluded that Catlin's trial counsel adequately investigated and developed mitigation evidence sufficient to inform

the penalty-phase strategy of focusing on his good acts and suitability for life without parole. *Id.* at 229a-231a. And the state court reasonably could have concluded that counsel's alleged deficiencies were not prejudicial based on a reweighing of the aggravation evidence and total mitigating evidence. *Id.* at 232a-233a. The district court granted a certificate of appealability on Catlin's claim. *Id.* at 302a.

6. The court of appeals affirmed. Pet. App. 1a-38a. With respect to the *Strickland* claim at issue here, the court held that the California Supreme Court reasonably could have concluded that Catlin's claim "failed both prongs of the *Strickland* test." *Id.* at 27a-32a.

First, the court of appeals explained, the state court reasonably could have concluded that Catlin's defense counsel conducted an adequate investigation and presentation of mitigation evidence. Pet. App. 27a-31a. Because Catlin's attorneys knew that two doctors had examined Catlin a few years earlier in 1986 and found no evidence of brain damage, the court reasoned, it was rational for counsel to conclude that no further investigation of mental health was necessary. *Id.* at 28a. Catlin's counsel also reasonably could have concluded that any evidence of brain damage "would have rung hollow" with the jury, given the "planned and deliberate nature of Catlin's crimes" and because Catlin had "presented as intelligent and smooth talking" in his guilt-phase testimony. *Id.* at 30a. And counsel could have worried that evidence of brain damage would have undermined the defense's strategy of

"emphasizing Catlin's lack of present dangerousness" at the penalty phase, and instead made Catlin "seem *more* dangerous, not less." *Id.* at 31a.

It was also reasonable, the court of appeals concluded, for Catlin's attorney to refrain from introducing evidence of childhood trauma. Pet. App. 30a. Evidence of Catlin's conflicts with his mother would have contradicted his guilt-phase testimony and "may well have inflamed the jury against Catlin" by, among other things, "remind[ing] the jury of the matricidal nature" of his crime. *Id.* Likewise, evidence of Catlin's childhood trauma and sexual abuse would have conflicted with the strategy of demonstrating that he "was no longer a danger to society." *Id.* And the defense had no apparent way to introduce the evidence of sexual abuse now asserted by Catlin, because the purported abuser was dead and there was no evidence that Catlin himself was willing to testify about it. *Id.*

Finally, the court of appeals held, even if there were deficient performance the state court reasonably could have concluded that the alleged deficiencies were not prejudicial. Pet. App. 31a-32a. In reaching this conclusion, the court of appeals highlighted the "considerable" aggravating evidence against Catlin, including his prior conviction for Glenna's murder, the fact the victims were his wives and mother, his lack of remorse, and the "slow painful death" his victims suffered. *Id.* The court held that the state court could reasonably conclude that the additional mitigation evidence Catlin

proffered in his habeas petition would have been "insufficient to overcome the dramatic weight of the aggravating evidence." *Id.*

The court of appeals denied Catlin's petition for rehearing and rehearing en banc. Pet. App. 39a.

ARGUMENT

The court of appeals' decision rejecting Catlin's claim of ineffective assistance was correct under well-settled law. Catlin does not assert any conflict of authority with decisions of other courts. Nor is there any other reason for further review.

1. The standards that apply to Catlin's claim are well settled. An ineffective assistance claim must demonstrate that (1) "counsel's performance was deficient," and (2) the "deficient performance prejudiced the defense." *Strickland v. Washington*, 466 U.S. 669, 687 (1984). Under the performance prong, there is a "strong presumption that counsel's conduct falls within the wide range of reasonable professional assistance." *Id.* at 689. Under the prejudice prong, Catlin must establish "a reasonable probability that, but for counsel's unprofessional errors, the result of the proceedings would have been different." *Id.* at 694.

Where a state court has adjudicated a claim on the merits, a federal court may grant habeas relief only if the state court's decision was "contrary to, or involved an unreasonable application of, clearly established Federal law, as determined by the Supreme Court of the United States," or 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). And if the state court denied the claim summarily, as the California Supreme Court did here, the federal habeas court must determine what arguments or theories "could have supported[] the state court's decision," and may grant relief only if each such theory was "so lacking in justification that there was an error well understood and comprehended in existing law beyond any possibility for fairminded disagreement." *Harrington v. Richter*, 562 U.S. 86, 102-103 (2011).

2. The court of appeals correctly applied those standards here, with respect to both deficient performance and prejudice.

a. *Strickland*'s performance inquiry and Section 2254(d) "are both highly deferential," so "when the two apply in tandem," that makes it "all the more difficult" to "establish[] that a state court's application of *Strickland* was unreasonable under § 2254(d)." *Richter*, 562 U.S. at 105 (internal quotation marks omitted). Applying Section 2254(d), the question under the deficient performance prong is "whether there is any reasonable argument that counsel satisfied *Strickland*'s deferential standard." *Id.* A federal court may grant relief "only if *every* fairminded jurist would agree that *every* reasonable lawyer would have made a different decision." *Dunn v. Reeves*, 594 U.S. 731, 739-740 (2021) (per curiam) (internal brackets and quotation marks omitted).

i. Catlin first argues that his trial attorneys performed deficiently because they failed to conduct an adequate investigation of mitigating evidence. Pet. 24-36. "Counsel in a death-penalty case has a duty to make

reasonable investigations or to make a reasonable decision that makes particular investigations unnecessary." *Andrus v. Texas*, 590 U.S. 806, 814 (2020) (internal quotation marks omitted). A particular decision not to investigate is assessed for reasonableness, "applying a heavy measure of deference to counsel's judgments." *Id.* (quoting *Wiggins v. Smith*, 539 U.S. 510, 521-522 (2003)).

Here, as the court of appeals observed, defense counsel hired an experienced mitigation investigator to assist with the penalty phase. Pet. App. 28a. Counsel also possessed mental health evaluations of Catlin by two different doctors. *Id.* Counsel obtained a copy of Catlin's adoption file, which described the "circumstances of his birth and adoptive family," and counsel's billing records suggest that they "consulted with and reviewed materials from an adoption syndrome expert." *Id.* at 230a. Counsel also had access to other "readily available" evidence regarding Catlin's background, including the police interviews and testimony of witnesses who testified at Catlin's earlier trial for Glenna's murder, as well as at the preliminary hearing and guilt phases of his trial for the murders of Joyce and Martha. *Id.* at 28a. Further, counsel investigated and introduced mitigation evidence from at least eight witnesses who testified in support of Catlin at the penalty phase. *Id.* at 16a, 230a.

Catlin contends that his attorneys also should have investigated allegations that he was mistreated by his mother and sexually abused by a

family friend. Pet. 25-26, 30. But the record suggests that Catlin's counsel knew about the alleged episodes and (as discussed below) reasonably decided not to introduce such evidence at the penalty phase. *See* Pet. App. 28a, 30a, 230a, 372a. He additionally argues that his attorneys should have investigated his untreated addiction, abuse he suffered during juvenile detention, and cognitive impairment due to head injuries and neurotoxins. Pet. 28, 30-31. But Catlin has not identified any evidence in the state court record—not even a declaration from himself—supporting those allegations. *See, e.g.*, Pet. App. 231a. That is fatal to his claim. "[R]eview under § 2254(d)(1) is limited to the record that was before the state court that adjudicated the claim on the merits," *Cullen v. Pinholster*, 563 U.S. 170, 181 (2011), and an "absence of evidence cannot overcome the 'strong presumption that counsel's conduct [fell] within the wide range of reasonable professional assistance,'" *Burt v. Titlow*, 571 U.S. 12, 23 (2013).[1]

Catlin also argues that the attorney who was primarily responsible for the penalty phase, Michael Dellostritto, spent insufficient time preparing for

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[1] The record contains no testimony from Catlin's trial attorneys describing their investigation or strategic choices. Pet. App. 230a; *see Reeves*, 594 U.S. at 741-742 (court was "entitled to reject" *Strickland* claim where petitioner failed to introduce trial counsel testimony that "might have pointed to information justifying the strategic decision to devote their time and efforts elsewhere"). Catlin claims his state habeas counsel tried to interview trial counsel and trial counsel did not cooperate; however, Catlin does not cite anything in the record to support this assertion. Pet. 28. It was reasonable for the state court to "discount the evidentiary value" of Catlin's contention "in the absence of any supporting declaration from state habeas counsel." Pet. App. 230a.

it. Pet. 26-28. But as the court of appeals held, Catlin did not show that Dellostritto spent inadequate time on this case. Pet. App. 27a-28a. Dellostritto billed "well over a hundred hours" before the start of jury selection and more afterward. *Id.* at 28a. The evidence suggests that co-counsel Dominic Eyherabide "was involved in the penalty phase as well." *Id.* And defense counsel also "hired an experienced 'mitigation investigator' to assist with the penalty phase." *Id.*

ii. Catlin claims that his counsel was also ineffective for failing to present certain mitigation evidence. *See* Pet. 25-26, 28, 30-32. But as the court of appeals explained, "defense counsel made a strategic decision to focus the penalty-phase defense on Catlin's positive qualities," including his "lack of present dangerousness and the benefits to society that sparing him could provide." Pet. App. 29a-31a. Accordingly, counsel presented mitigation testimony from multiple sources: members of a family that Catlin mentored; a woman whose child Catlin had saved; a psychologist; and several prison officials who testified about his "exemplary behavior and contributions to the prison workforce." *Id.* As the court observed, this penalty-phase strategy "accorded with" Catlin's defense of actual innocence at the guilt stage, in which counsel had "tried to paint Catlin as having a good relationship with his family and as having business acumen (and thus lacking a financial motive)." *Id.* at 29a.

The additional evidence that Catlin now faults counsel for failing to introduce would have been inconsistent with Catlin's guilt-phase defense and the penalty-phase strategy. Pet. App. 29a-31a. For example, evidence that Catlin's mother punished him by forcing him to dress in girl's clothing as a child, Pet. 30, would have conflicted with Catlin's own guilt-phase testimony, and with his guilt-phase strategy of emphasizing his positive relationship with her. Pet. App. 30a. Evidence that Catlin suffered from "severe impairment in his cognitive functioning," Pet. 31, likely would have "rung hollow" with the jury: Catlin had "presented as intelligent and smooth-talking" during his guilt-phase testimony, and the jury had heard evidence of his "business acumen," Pet. App. 30a. And defense evidence about an alleged cognitive impairment could have led to rebuttal evidence, from the prosecution, that two doctors had examined Catlin in 1986 and found no indication of brain damage. *Id.* at 28a, 30a.[2]

Moreover, even on its own terms, much of Catlin's alleged new evidence—of "substance abuse, mental illness, and [prior] criminal problems"—is "by no means clearly mitigating, as the jury might have concluded that [he] was simply beyond rehabilitation." Pet. App. 30a (quoting *Pinholster*, 563 U.S. at 201). Evidence that Catlin was incarcerated in a juvenile detention facility,

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[2] With respect to Catlin's contention about sexual abuse by a family friend, Pet. 30, it is also not clear how counsel could have introduced such evidence, given that the alleged abuser was dead and there is no evidence that Catlin himself was willing to testify about it at trial. Pet. App. 30a.

Pet. 31—which would show that he began a life of crime at a young age—was a "double-edged sword, and counsel did not act unreasonably in declining to wield it." Pet. App. 31a. As the court of appeals recognized, "such evidence could have had the effect of making Catlin seem *more* dangerous, not less." *Id.*

Finally, Catlin argues that defense counsel's questions during voir dire led jurors to expect testimony about his "childhood, background and psychological profile." Pet. 29-30. Catlin's assertion that these questions caused jurors to expect to hear certain evidence, however, is "mere surmise." Pet. App. 233a. "The noted voir dire appears only to probe prospective juror susceptibility to various generic mitigation." *Id.* A fairminded jurist could conclude that the questions "'[did] not establish that evidence of psychological trauma in fact existed that was available to counsel and that should have been presented.'" *Id.* (quoting Pet. App. 373a).

b. Catlin's failure to establish prejudice was another basis on which the state court reasonably could have rejected his claim. Pet. App. 31a-32a.

Prejudice at the penalty phase is analyzed by "reweigh[ing] the evidence in aggravation against the totality of available mitigating evidence" and examining whether "at least one juror would have struck a different balance." *Wiggins*, 539 U.S. at 534, 537. The "likelihood of a different result must be substantial, not just conceivable." *Richter*, 562 U.S. at 112.

As the court of appeals observed, the aggravating evidence here was "considerable." Pet. App. 31a. Evidence that a defendant had "committed

another murder" is "the most powerful imaginable aggravating evidence." *Wong v. Belmontes*, 558 U.S. 15, 28 (2009) (internal quotation marks omitted). Catlin had just been convicted of murdering his wife (Joyce) and his mother, and at the penalty phase he admitted that he was previously convicted of murdering another wife (Glenna). Pet. App. 31a. Catlin's financial motive, his lack of remorse, and his targeting of his own family members were further aggravating factors. And for all three victims, Catlin chose a particularly cruel method of killing—the poison destroyed the victims' lungs, resulting in "slow, painful" deaths. *Id.* at 32a. The state court reasonably could have concluded that the additional mitigation evidence Catlin argues should have been presented "would have been insufficient to overcome the dramatic weight of the aggravating evidence." *Id.* That is especially so given that the mitigation evidence "would have been entirely inconsistent" with the general thrust of Catlin's guilt- and penalty-phase defenses. *Id.*; *see also id.* at 229a-230a.

Catlin argues that statements some jurors made in declarations after trial show that they "were open to" mitigation evidence concerning brain damage and childhood trauma. Pet. 31. These juror statements are inadmissible to impeach the verdict. *See* Fed. R. Evid. 606(b); *Warger v. Shauers*, 574 U.S. 40, 48 (2014). But even if the statements could be considered, the court of appeals explained why they would not make a difference. Pet. App. 32a. The additional mitigation evidence "would not [have] provide[d] the jury with an explanation for Catlin's calculated, planned

criminal behavior," and "would not [have] lessen[ed] his moral culpability." *Id.* Moreover, the jury "did not debate for long" and returned a penalty-phase verdict in "less than two-and-a-half hours," indicating that they "did not struggle in coming to a decision" that the death sentence was warranted. *Id.* Nor do the juror statements on which Catlin relies say that any of the mitigation evidence would have changed their minds. Pet. 31. The state court's decision to reject Catlin's *Strickland* claim under these circumstances was reasonable.

CONCLUSION

The petition for a writ of certiorari should be denied.

Respectfully submitted,

ROB BONTA
Attorney General of California
HELEN H. HONG
Acting Solicitor General
JAMES WILLIAM BILDERBACK II
Senior Assistant Attorney General
IAN FEIN
Deputy Solicitor General
HOLLY D. WILKENS
Supervising Deputy Attorney General

KENNETH N. SOKOLER
Supervising Deputy Attorney General

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