No. 25-529

In the Supreme Court of the United States

MIKE BROWN, WARDEN, PETITIONER

v.

LOUIS CHANDLER

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

REPLY BRIEF

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INTRODUCTION

This Court has repeatedly emphasized the difficulty of overcoming the limitations on habeas relief in the Antiterrorism and Effective Death Penalty Act. *Virginia* v. *LeBlanc*, 582 U.S. 91, 94 (2017) (quoting *Harrington* v. *Richter*, 562 U.S. 86, 102 (2011)) ("This is 'meant to be' a difficult standard to meet."). It has also recognized the important differences between reviewing a constitutional claim with those limitations in place and reviewing it de novo. See *Shinn* v. *Kayer*, 592 U.S. 111, 121 (2020) (quoting *Woodford* v. *Visciotti*, 537 U.S. 19, 25 (2002)) (holding that the Ninth Circuit "impermissibly 'substituted its own judgment for that of the state court' instead of applying deferential review"). To that end, the State's petition identified two ways the Sixth Circuit failed to adhere to those limitations when it granted respondent Louis Chandler habeas relief.

Chandler fails to address that dichotomy. He almost entirely avoids AEDPA's language and this Court's cases outlining its inherently demanding standard. He also fails to counter the State's assertion that two independent AEDPA violations occurred. Instead, he suggests the Sixth Circuit's decision was a principled application of this Court's precedents on the right to present a defense to a new factual scenario. But the Sixth Circuit was not reviewing de novo Chandler's claimed deprivation of the right to present a defense. It should have granted habeas relief only if *the state court's* rejection of Chandler's claim resulted in a decision that involved "an unreasonable application of" this Court's precedents. 28 U.S.C. § 2254(d)(1).

The state court's decision denying Chandler relief from his convictions for sexually assaulting eight-year-old A.H. was reasonable. None of this Court's precedents involve the misapplication of unquestionably valid state rules. Nor do they involve extrinsic evidence that affects only a witness's credibility. So when the Sixth Circuit granted relief to Chandler based on the state court's misapplication of Michigan rules to exclude extrinsic evidence involving only A.H.'s credibility, it relied on an *extension* of this Court's precedents—not an unreasonable application of them.

This Court should grant review to reaffirm the point to the Sixth Circuit that AEDPA's limitations matter, and to prevent improper intrusion on a state's sovereign power to punish criminal offenders—in this case, and future ones.

ARGUMENT

I. The Sixth Circuit failed to defer to the state court's decision, as AEDPA requires.

By rejecting Chandler's claim that he was denied the right to present a defense, the Michigan Court of Appeals acted within the leeway that this Court's precedents allow. Chandler's arguments to the contrary are not persuasive. Moreover, the State's petition raised two questions—both involving the Sixth Circuit's failure to abide by AEDPA's limitations—that are worthy of this Court's review. Chandler does not meaningfully address either.

A. The state court did not unreasonably apply this Court's precedents.

Because the Michigan Court of Appeals adjudicated Chandler's claim on the merits, AEDPA placed strict limitations on the availability of habeas relief. The Sixth Circuit was wrong to conclude that those limitations were overcome.

To start, consider the language of the statute. Under § 2254(d)(1), a federal court *cannot* grant habeas relief on a claim that has already been adjudicated by a state court unless that adjudication "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." That standard is "highly deferential" and "demands that state-court decisions be given the benefit of the doubt." *Visciotti*, 537 U.S. at 24 (internal quotation marks omitted). "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) (cleaned up). Instead, the state court's application of this Court's holdings "must be objectively unreasonable." *Id.* at 76.

Next, take the relevant "clearly established" law. "[T]he Constitution guarantees criminal defendants 'a meaningful opportunity to present a complete defense.' " *Crane* v. *Kentucky*, 476 U.S. 683, 690 (1986) (quoting *California* v. *Trombetta*, 467 U.S. 479, 485 (1984)). But there is no "right to introduce all relevant evidence," *Montana* v. *Egelhoff*, 518 U.S. 37, 42 (1996) (plurality opinion), including "testimony that is

incompetent, privileged, or otherwise inadmissible under standard rules of evidence," *Taylor* v. *Illinois*, 484 U.S. 400, 410 (1988).

Now look at the Michigan Court of Appeals' opinion. That court rejected Chandler's claim that he was denied the right to present a defense because he was represented by counsel who "presented [Chandler]'s argument that the victim fabricated the allegations against defendant." App. 132a, n.3. In other words, the state court found that, "despite the adjournment and exclusion of witnesses," *id.*, Chandler was provided with " 'a meaningful opportunity to present a complete defense.' " *Crane*, 476 U.S. at 690 (quoting *Trombetta*, 467 U.S. at 485).[1]

Chandler says that the state court's decision was unreasonable. But he does not explain why, other than to parrot the Sixth Circuit's complaint that he was prevented from producing evidentiary support for his defense. Br. in Opp. at 24 (quoting App. 78a). He then maintains that, because the state court's adjudication was confined to a "short analysis in a footnote," it must have been unreasonable. Br. in Opp. 24–25. But the length of the analysis and whether it was confined to a footnote does not matter; even unexplained orders

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[1] Chandler says that this conclusion undermines the "protections" that AEDPA provides habeas petitioners. Br. in Opp. at 24–25. But AEDPA merely restricts a federal court's power to grant relief. *Shoop* v. *Twyford*, 596 U.S. 811, 818 (2022). It does not provide any affirmative "protections." And more, it does not "require[ ]" anything, Br. in Opp. at 25; it *permits* relief, so long as the conditions listed in § 2254(d) are met. *Brown* v. *Davenport*, 596 U.S. 118, 134 (2022).

can be reasonable. See *Richter*, 562 U.S. at 98 ("Where a state court's decision is unaccompanied by an explanation, the habeas petitioner's burden still must be met by showing there was no reasonable basis for the state court to deny relief."); see also *Johnson* v. *Williams*, 568 U.S. 289, 300 (2013) ("[F]ederal courts have no authority to impose mandatory opinion-writing standards on state courts.").

What's more, "evaluating whether a rule application was unreasonable requires considering the rule's specificity. The more general the rule, the more leeway courts have in reaching outcomes in case-by-case determinations." *Yarborough* v. *Alvarado*, 541 U.S. 652, 664 (2004). The right to present a defense is a very general constitutional rule. Chandler agrees. See Br. in Opp. at 25 ("The right to present a complete defense is general."), 27 ("[T]his Court has framed the doctrine as a general constitutional rule. . . ."); 38 (noting that no cases define the right differently, "given the general nature of the rule"). It cannot be, as Chandler claims, that the state court unreasonably applied this Court's precedents on the right to present a defense *because* the right is general and contemplates application to new factual scenarios. Quite the opposite. The state court had wide latitude to apply that general right to the facts underlying Chandler's claim. By focusing on the trial as a whole and pointing out what Chandler *was* able to present to support his defense, the Michigan Court of Appeals' decision to deny relief was well within that latitude.

B. In granting relief, the Sixth Circuit violated AEDPA in two ways.

The Sixth Circuit determined that Chandler overcame AEDPA's "unreasonable application" limitation and granted relief. But in doing so, it committed two clear errors.

As an initial matter, recall that, to overcome AEDPA's limitations, the state court's decision must have unreasonably applied "federal law then clearly established in the holdings of this Court." *Richter*, 562 U.S. at 100. It is not for the federal court to substitute its independent judgment for that of the state court, or to "treat[ ] the unreasonableness question as a test of its confidence in the result it would reach under *de novo* review." *Id.* at 102. To the extent Chandler argues that "[t]he Sixth Circuit" was correct when it "applied a unique factual scenario to this Court's clearly established law," Br. in Opp., p. 25, that is the wrong standard. The question is not whether the Sixth Circuit applied this Court's precedents correctly, but instead "whether a fairminded jurist could take a different view." *Shinn* v. *Kayer*, 592 U.S. 111, 121 (2020).

In granting relief, the Sixth Circuit first erred because none of this Court's precedents involve the misapplication of unquestionably valid state rules. In *Washington* v. *Texas*, a murder defendant was precluded from presenting testimony from an accomplice because of two state statutes that categorically precluded coparticipants in the same crime from testifying for one another. 388 U.S. 14, 16–17 (1967). In *Chambers* v. *Mississippi*, a murder defendant was precluded from presenting testimony that another person

had confessed to the crime under a state rule that prevented a party from impeaching its own witness and hearsay rules that contained no exceptions for trustworthy statements. 410 U.S. 284, 291–92, 295, 299–300 (1973). In *Crane* v. *Kentucky*, a murder defendant was prevented from introducing evidence of the circumstances surrounding his confession because that evidence bore on whether the confession was voluntary, which is a legal question that the Kentucky courts said could not be relitigated at trial. 476 U.S. 683, 686–87 (1986). In *Rock* v. *Arkansas*, a defendant was prevented from providing evidence of what she said while under hypnosis because of a *per se* rule that hypnosis evidence was inadmissible. 483 U.S. 44, 47–49 (1987). And in *Holmes* v. *South Carolina*, a defendant was precluded from presenting evidence showing that another person committed the crime based on a rule that third-party guilt evidence was inadmissible if there was otherwise strong evidence of the defendant's guilt. 547 U.S. 319, 323–24 (2006).

Each of these cases involved "arbitrary" rules "that did not serve any legitimate interests." *Id.* at 325–26. Judges Thapar and Murphy said in their joint dissent that, in these cases, "the Court found unconstitutional novel or antiquated rules of evidence or procedure." App. 162a.

The rules at issue here were not arbitrary or antiquated. The trial court precluded Chandler's witnesses—two former foster parents who would have testified that A.H. lied about minor allegations of physical abuse and an expert who would have testified about memory degradation—because he did not timely

disclose them under Michigan notice requirements. See Mich. Ct. R. 6.201; Mich. Comp. Laws § 767.94a(1)(a) and (2). The trial court also ruled that the witnesses would have provided improper extrinsic evidence, which it believed was precluded under Michigan law. See Mich. R. Evid. 608(b). Those rules are all unquestionably valid, and indeed, Chandler does not challenge them. But whether the state court properly applied those rules is not the question; what matters is that this Court has never held that a misapplication of *valid* state rules to exclude evidence can result in a violation of the right to present a defense.

The Sixth Circuit erred a second time because none of this Court's precedents involve extrinsic credibility evidence. The defendants in each case—*Washington*, *Chambers*, *Crane*, *Rock*, and *Holmes*—were all precluded from presenting evidence related to facts underlying the crimes for which the defendants were on trial. Each pertained to factual evidence from an accomplice, another suspect, a confession, or the defendant's own version of the facts. These cases, then, clearly establish that a defendant has a weighty interest in "introducing factual evidence or testimony about the crime itself." *United States* v. *Scheffer*, 523 U.S. 303, 317 n.13 (1998) . None of them stand for the proposition that a defendant has a weighty interest in presenting credibility evidence unrelated to the facts of the underlying crime.

Yet, here, the state trial court merely precluded the latter. Chandler wanted to present testimony showing that A.H. had lied in the past about unrelated acts, as well as an expert opinion about how memory

works. That is all extrinsic evidence that would have addressed A.H.'s general credibility, not factual evidence underlying the sexual assaults for which he was on trial. This Court's precedents do not clearly establish that a defendant has the right to introduce this type of evidence.

Chandler does not address these arguments; instead he brushes them off because, he says, he has never raised a claim involving the misapplication of a state rule or the right to present extrinsic evidence. He maintains that his argument has always been that *the Constitution* was violated, not state rules. But he misses the point. The Sixth Circuit *used alleged state-law violations* in this case as a basis to find that Chandler was denied his right to present a defense. This Court has never held that the misapplication of a state rule, or the exclusion of extrinsic credibility evidence, amounts to a constitutional violation. Under AEDPA, then, habeas relief was unavailable.

Nevada v. *Jackson*, 569 U.S. 505 (2013), illustrates the point. In *Jackson*, the defendant was on trial for rape, and he wanted to present evidence that the victim had previously made several other uncorroborated rape allegations against him. *Id.* at 507. The trial court allowed cross-examination on those allegations, but it did not allow the defendant to admit any evidence. *Id.* This Court reversed the decision to grant habeas relief, noting that the Ninth Circuit had improperly "recogniz[ed] a broad right to present 'evidence bearing on [a witness'] credibility." *Id.* at 512 (quoting *Jackson* v. *Nevada*, 688 F.3d 1091, 1099 (9th Cir. 2012)). Characterizing this Court's precedents "at

such a high level of generality," the *Jackson* Court said, means that "a lower federal court could transform even the most imaginative extension of existing case law into 'clearly established Federal law, as determined by the Supreme Court.' " *Id.* (quoting § 2254(d)(1)). Doing so "would defeat the substantial deference that AEDPA requires." *Id.*

Chandler dismisses *Jackson* by calling it a "different factual permutation" involving a right-to-present-a-defense claim. Br. in Opp. at 32. That description overlooks what the *Jackson* Court said about applying general rules under AEDPA. Chandler also overlooks the similarities of the *Jackson* case to his own, instead calling that precedent inapplicable here because he is not arguing he has a right to present extrinsic evidence. Br. in Opp. at 34. Yet that *is* what he is arguing by claiming that his constitutional rights were violated when he was not allowed to present evidence that only affected A.H.'s credibility.

Indeed, it is hard to see how the evidence at issue in *Jackson* is meaningfully different than the evidence at issue here. In fact, the evidence in *Jackson* was arguably *more* important to the defendant's case because it involved allegations that were the same type as the underlying charge and involved the same actor. Here, on the other hand, Chandler sought to introduce evidence of an entirely different kind (allegations of physical abuse, not sexual) that involved different actors. If there was no clearly established right to introduce the evidence in *Jackson*, there was no clearly established right for Chandler to introduce the attenuated evidence he offered in his case.

II. This case is worthy of this Court's review.

Chandler argues that this Court should not review this case because there is no circuit split. Arguably, though, there is. And even if there is not, this case still merits review.

In its petition, the State cited *Moses* v. *Payne*, 555 F.3d 742, 758–59 (9th Cir. 2009), and *Lucio* v. *Lumpkin*, 987 F.3d 451, 474 (5th Cir. 2021), to show that other circuits have recognized AEDPA's limits in cases involving the right to present a defense. Pet. at 32. Chandler maintains that those cases do not demonstrate "an actual split of law" because they involved "different evidence excluded, under different rules." Br. in Opp. at 37 n.7. True enough, but it is hard to reconcile the stated law in those cases with the Sixth Circuit's conclusion here. In *Moses*, the Ninth Circuit said that this Court's right-to-present-a-defense cases "do not squarely address whether a court's exercise of discretion to exclude expert testimony violates a criminal defendant's constitutional right to present relevant evidence." 555 F.3d at 758. And in *Lucio*, the Fifth Circuit said that "[t]he Supreme Court has never applied its complete-defense cases to discretionary evidentiary decisions under rules that are themselves constitutional." 987 F.3d at 474. If AEDPA precludes a federal court from reevaluating discretionary state-law rulings and turning them into constitutional violations, it cannot be seriously contested that AEDPA nevertheless allows *misapplied* state-law rulings to form the basis of a right-to-present-a-defense claim. The *Moses* and *Lucio* cases suggest that the Ninth and Fifth circuits would have ruled differently here.

Additionally, Chandler has no answer to *Jackson*. With similar evidence and nearly identical rules at issue, this Court held that "no prior decision of this Court clearly establishes that the exclusion of this evidence violated respondent's federal constitutional rights." 569 U.S. at 506. The Sixth Circuit's decision conflicts with *Jackson* and thus warrants review. See Supreme Ct. R. 12(c).

Even if no conflicts exist, this case still warrants action from this Court. "Federal habeas review of state convictions frustrates both the States' sovereign power to punish offenders and their good-faith attempts to honor constitutional rights." *Calderon* v. *Thompson*, 523 U.S. 538, 555–56 (1998) (internal quotation marks omitted). AEDPA recognizes this intrusion, and its language was designed "to ensure that state proceedings are the central process, not just a preliminary step for a later federal habeas proceeding." *Richter*, 562 U.S. at 103–04. By granting relief to Chandler, the Sixth Circuit has undermined Michigan's power to punish him for his appalling assaults, which will unnecessarily require four witnesses to relive the sexual abuse they endured as young children. This Court should review this case and summarily reverse the Sixth Circuit's decision to prevent this unwarranted intrusion.

CONCLUSION

The petition for writ of certiorari should be granted.

Respectfully submitted,

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