No. 26-6090

FILED
FEB 12 2026
OFFICE OF THE CLERK
SUPREME COURT, U.S.

IN THE

SUPREME COURT OF THE UNITED STATES

Mr. Kevin Deon Brazier — PETITIONER
(Your Name)

vs.

C. Rojas — RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

UNITED STATES COURT OF APPEALS FOR THE NINTH CIRCUIT
(NAME OF COURT THAT LAST RULED ON MERITS OF YOUR CASE)

PETITION FOR WRIT OF CERTIORARI

Mr. Kevin Deon Brazier, Pro Se G61461
(Your Name)

P.O. Box 705
(Address)

Soledad, Ca. 93960
(City, State, Zip Code)

(831) 678 - 3951 or (831) 678 - 5826
(Phone Number)

RECEIVED
MAY 22 2026
OFFICE OF THE CLERK
SUPREME COURT, U.S.

QUESTION(S) PRESENTED

No. 1: Was an appeal warranted on the appeal's court procedural ruling which faulted Brazier for the late development of his Brady claims when the State had withheld the necessary facts in a work product file?

No.2: Was appellant denied his federal constitutional rights to equal protection, due process of law, the effective assistance of counsel and meaningful appellant review when the California Courts pursuant to Cal. Pen. Code § 1054.9 and the U.S. Court of Appeals refused to order: a Certificate of appealability and Settlement of the record and/ or His request to augment the record with Marsden Transcripts necessary for review of the issues on appeal herein and direct appeal.

No. 3: Must a court consider prevailing professional norms when determing whether a life and mental health history investigation was "thorough"?

No. 4: Whether a court evaluating an ineffective assistance of counsel claim may relay on the testimony of counsel who has failed to conduct an adequate and/ or investigation in determing whether there was prejudice stemming from that deficiency.

LIST OF PARTIES

[X] All parties appear in the caption of the case on the cover page.

[ ] All parties **do not** appear in the caption of the case on the cover page. A list of all parties to the proceeding in the court whose judgment is the subject of this petition is as follows:

RELATED CASES

The following proceeding are directly related to this petition:

People v. Brazier, 2013 Cal.App. Unpub. Lexis 3812 (Cal.App.4th Dist., May 29, 2013)

People v. Brazier, 2013 Cal. Lexis 6736 (Supreme Court of California, Aug. 14, 2013)

Brazier v. Holland, 2015 U.S. Dist. Lexis 134442 (C.D.Cal., July 28, 2015)

Brazier v. Holland, 2015 U.S. Dist. Lexis 134447 (C.D.Cal., Sept. 30, 2015)

People v. Brazier, 2024 Cal.App. Unpub. Lexis 1579 (Cal.App.4th Dist., March 13, 2024)

People v. Brazier, 2024 Cal.App. Unpub. Lexis 2861 (Supreme Court of California, May 29, 2024)

Brazier v. Borla, 2025 U.S. Dist. Lexis 109228 (C.D.Cal. June 9, 2025)

Brazier v. Borla, 2025 U.S. Dist. Lexis 130429 (C.D.Cal. July 8, 2025)

Brazier v. Borla, 2025 U.S. Ninth Circuit Court of Appeals, No. 25-4819 (Ninth Cir., Nov. 14, 2025)

TABLE OF CONTENTS

OPINIONS BELOW 1

JURISDICTION ..... 2.

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED ..... 3.

STATEMENT OF THE CASE ..... 4.

REASONS FOR GRANTING THE WRIT ..... 6.

CONCLUSION ..... 17.

INDEX TO APPENDICES

APPENDIX A - United States Court of Appeals Order No. 25-4885 (9th Cir. 2026)

APPENDIX B - United States Court of Appeals Order No. 25-4898 (9th Cir. 2026)

APPENDIX C - United States District Court Judgment Case: EDCV 24-2357-MRA (AGR) Central district of California.

APPENDIX D - Letter from Supreme Court of the United States Office of the Clerk March 13th, 2026

APPENDIX E

APPENDIX F

TABLE OF AUTHORITIES CITED

CASES	PAGE NUMBER
Anders v. California, 386 U.S. 738 (1967)	10.
Burns v. Ohio, 360 U.S. 252 (1959)	8.
Cone v. Bell, 556 U.S. 449 (2009)	16.
Douglas v. California, 372 U.S. 353 (1963)	12.
Douglas v. Workman, 560 F.3d 1156 (2009)	12.
Draper v. Washington, 372 U.S. 487 (1963)	8.
Evitts v. Lucey, 469 U.S. 387 (1985)	10.
Fisher v. Johnson, 174 F.3d 710 (1999)	14.
Griffin v. Illinois, 351 U.S. 12 (1956)	6.
STATUTES AND RULES	
United States Constitution Amendment VI	3.
United States Constitution Amendment XIV	3.
28 U.S.C. 1254(1)	2.
28 U.S.C. 2244(d)(1)(B)	12. - 13.
28 U.S.C. 2244(d)(1)(D)	12. -13.
28 U.S.C. 2253(c)	3.
28 U.S.C. 2254(e)(2)	3.
OTHER	

TABLE OF AUTHORITIES CITED

CASES	PAGE NUMBER
Kreutzer v. Bowersox, 231 F3d 460 (2008)	14.
Marsh v. Soares, 223 F.3d 1217 (2000)	13.
Mayer v. City of Chicago, 404 U.S. 189 (1971)	9.
Mitchell v. Jones, 208 U.S. Dist. Lexis 13126 (2008)	13.
Rompilla v. Beard, 545 U.S. 374 (2005)	16.
Strickland v. Washington, 466 U.S. 668 (1984)	16.
United States v. Agurs, 427 U.S. 97 (1976)	9.
Wardlaw v. Cain, 541 F.3d 275 (2008)	14.
Wiggins v. Smith, 539 U.S. 510 (2003)	15. - 16.

STATUTES AND RULES

OTHER

IN THE

SUPREME COURT OF THE UNITED STATES

PETITION FOR WRIT OF CERTIORARI

Petitioner respectfully prays that a writ of certiorari issue to review the judgment below.

OPINIONS BELOW

[X] For cases from **federal courts**:

The opinion of the United States court of appeals appears at Appendix A-B to the petition and is

[X] reported at Brazier v. Borla, No. '25-4885; or,
[ ] has been designated for publication but is not yet reported; or,
[ ] is unpublished.

The opinion of the United States district court appears at Appendix C to the petition and is

[X] reported at Brazier v. Borla, 5:24-cv-02357-MRA; or,
[ ] has been designated for publication but is not yet reported; or,
[ ] is unpublished.

[ ] For cases from **state courts**:

The opinion of the highest state court to review the merits appears at Appendix _____ to the petition and is

[ ] reported at _____; or,
[ ] has been designated for publication but is not yet reported; or,
[ ] is unpublished.

The opinion of the _____ court appears at Appendix _____ to the petition and is

[ ] reported at _____; or,
[ ] has been designated for publication but is not yet reported; or,
[ ] is unpublished.

JURISDICTION

[X] For cases from **federal courts**:

The date on which the United States Court of Appeals decided my case was January 30, 2026.

[X] No petition for rehearing was timely filed in my case.

[ ] A timely petition for rehearing was denied by the United States Court of Appeals on the following date: _____, and a copy of the order denying rehearing appears at Appendix _____.

[ ] An extension of time to file the petition for a writ of certiorari was granted to and including _____ (date) on _____ (date) in Application No. ___A_____.

The jurisdiction of this Court is invoked under 28 U. S. C. § 1254(1).

[ ] For cases from **state courts**:

The date on which the highest state court decided my case was _____. A copy of that decision appears at Appendix _____.

[ ] A timely petition for rehearing was thereafter denied on the following date: _____, and a copy of the order denying rehearing appears at Appendix _____.

[ ] An extension of time to file the petition for a writ of certiorari was granted to and including _____ (date) on _____ (date) in Application No. ___A_____.

The jurisdiction of this Court is invoked under 28 U. S. C. § 1257(a).

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

U.S. Const. amend. VI: In all criminal prosecutions, the accused shall...have the assistance of Counsel for his defense.

U.S. Const. amend. XIV:...nor shall any state deprive any person of life, liberty, or property, without due process of law.

28 U.S.C. § 2253(c): (1) Unless a circuit justice or judge issues a certificate of appealability an appeal may not be taken to the court of appeals from--

(A) the final order in a habeas corpus proceeding in which the detention complained of arises out of process issued by the state court...

(2) A certificate of appealability may issue under paragraph (1) only if the applicant has made a substantial showing of the denial of a constitutional right.

28 U.S.C. § 2254(e)(2): If the applicant has failed to develop the factual basis of a claim in state court proceedings, the court shall not hold an evidentiary hearing on the claim.

28 U.S.C. § 2244(d)(1)(B): The date on which the impediment to filing an application created by State action in violation of the constitution or laws of the United States is removed...

STATEMENT OF THE CASE

In 2011, a jury convicted defendant of premeditated and deliberate attempted murder (section 664/187, subd.(a)) and making criminal threats (section 422). It also found true that he personally used a deadly weapon (a knife) in the commission of those crimes (sections 12022, subd.(b)(1) & 1192.7, subd.(c)(23)). The court sentenced him to a prison term of 14 years to life for the attempted murder conviction, imposed and stayed pursuant to section 654 a mid-term sentence of four years for the criminal threats, and imposed a total of six years on account of a strike prior and the enhancement for use of a deadly weapon.

Defendant appealed and direct appeal counsel requested that the court augment the clerk's transcript on appeal but did not receive requested Marsden transcript necessary and relevant to argument presented by defendant to direct appeals counsel, thus creating an impediment. Judment was affirmed, (People v. Brazier, May 29, 2013).

Defendant filed a section 1172.6 petition for resentencing in October 2022. The court appointed counsel for defendant and set the matter for trial (i.e. a prima facie hearing). Counsel filed a brief setting forth arguments intended to establish a prima facie showing of defendant's entitlement to section 1172.6 resentencing relief.

By the time the hearing went forward in September 2023, defendant had successfully moved to relieve counsel and to proceed in pro per. Defendant had alsoo filed a motion to strike the brief filed by former counsel on grounds counsel had submitted it "against the decision of the defendant", and because section 1172.6 is "irrelevant" The motion consisted of a number of documents:

REASONS FOR GRANTING THE PETITION

I. ACCESS TO POST CONVICTION TRANSCRIPTS

a. The Fourteenth Amendment of the united States Constitution and Cal. P.C. 1054.9 according to the United States Supreme Court, assures indigent defendants that they will not be denied access to transcripts which are relevant to issues they intend to raise on appeal. So long as the record reflects a colorable need for such a transcript, the courts may not refuse to provide that transcript unless the State proves that the transcript is not relevant to an issue raised on appeal.

Mr. Brazier has raised a challenge to the decision to deny his habeas corpus review and execute his sentence, or alternatively, to reduce his sentence Sua sponte when it did so. To present those claims, he requested various transcripts be made part of the appellate record. The California Supreme Court denied the request for transcripts. Mr. Brazier asserts that the requested transcripts are relevant. THe United States Supreme Court has addressed the question of whether transcripts must be provided when such a right is established. It's decision have established two fundamental themes. First, the scope of the due process and equal protection clauses is broad. Second, disparate treatment of indigent defendants is not tolerable. As a result, the State must provide an adequate record for appellate review, but that record need not include frivolous or unecessary materials.

The seminal opinion from the United States Supreme Court in Griffin v. Illinois, 351 U.S. 12(1956). In that case, two indigent defendants "filed a motion in the trial court asking that a certificate copy

(1) a cover page entitled "motion and notice of motion to strike entire pleading"; (2) A copy of the prima facie brief filed bu defendant's former appointed counsel; (3)a notice of intention to move for a new trial and resentencing; (4)a "petition for new trial, P.C. 1181(6)(8), resentencing, (P.C. 1172.1, 1172.75), andpursuant to (P.C.1385; and (5) a form petition for writ of habeas corpus.

At the hearing, defendant made clear that his new motion was intended to address both the guilt and penalty phase of his conviction.

On appeal, defendant's second appointed appellate counsel filed an opening brief that sets forth statements of the case and facts but does not present any issues raised by defendant for adjudication.

Second appellate counsel requested that the court augment the clerk's transcript on appeal but did not include priorrequested Marsden transcript necessary and relevant to argument defendant was invited to present.

In response to the court's invitation, defendant filed a supplemental brief inwhich he sets forth several issues that he argues individually and cumulatively call for reversal of all judgments against him and an order for a new trial or resentencing.

Defendant argued that the trial court erred when on June 16, 2023, it denied his request for an in-camera review of the impeded transcripts of a Marsden hearing during which his trial counsel discussed having limited knowledge of defendant's life and mental health history relevant to arguements defendant was presenting in his defense.

of the entire record, including a stenographic transcript of the proceedings, be furnished [to] them without cost. Id. at 13. At that time, the State of Illinois provided free transcripts for indigents that had been sentenced to death, but not to defendants in all other cases. Id. at 14. The sole question before the United States Supreme Court was whether the denial of the requested transcripts to indigent non-death penalty defendants was a denial of due process or equal protection.

The Supreme Court initially noted that "[p]roviding equal justice for poor and rich, weak and powerful alike is an age old problem... Both equal protection and due process emphasize ther central aim of our entire judicial system- all people charged with crime must so far as the law is concerned, stand on an equality before the bar of justice in every American Court. Id at 16-17. As such "[i]n criminal trials a State can no more discriminate on account of poverty than on account of religion, race, or color. Id. Furthermore: There is no rule which would deny the poor the right to defend themselves in a trial court and one which effectively denies the poor an adequate appellate review...

It is true that a State is not required by the federal constitution to provide appellate court or a right to appellate review at all. But that is not to say that a State that does grant appellate review can do so in a way that discriminates against some convicted defendants on account of poverty. Appellate review has now become an integral part of the California trial system for finally adjudicating the guilty or innocence of a defendant. Consequently, at all stages of the proceedings the due process and equal protection clauses protect persons like petitioner from invidious discriminations.

In order to satisfy the constituional mandates of both due process and equal protection, an indigent defendant must be provided with a reccord which facilitates an effective, merits-related appellate review. At the same time, the United States Supreme Court noted that a stenographic transcript is not necessary in instances where a less expensive, but no less adequate, alternative exists. Id. at 20. The United States Supreme Court reaffirmed its holding in Griffin when it struck down a requirement that all appeals to the Ohio Supreme Court be accompanied with a requisite filing fee, regardless of a defendant's indigency. see Burns v. Ohio, 360 U.S. 252 (1959). The Court held: Once the State chooses to establish appellate review in criminal cases, it may not foreclose indigents from access to any phase of that procedure because of their poverty. This is no less applicable where the State has afforded an indigent defendant access to the first phase of its appellate procedure but has effectively foreclosed access to the second phase of that procedure...Id. at 257.

Subsequently, the United States Supreme Court addressed how courts should go about determing whether defendants are entitled to certain transcripts. see Draper v. Washington, 372 U.S. 487(1963). The Court went on to disc uss the specific issues raised for appeal by the defendants to decide the relevance of the requested transcripts, and it ultimately concluded that the issues raised by those defendants could not be adequately concluded without resorting to the stenographic transcripts of the trial proceedings. Id at 497 - 499.

Additionally, it placed the burden on the State to prove that the requested transcripts are not relevant to the issues raised on appeal. see Mayer v. City of Chicago, 404 U.S. 189(1971). In doing so, the court held that a defendant need only make a colorable arguement that he or she needs the requested transcripts, it becomes the Staes burden to prove that the requested transcripts are not necessary for the appeal. Id.

b. The Transcripts requested by Mr. Brazier are relevant to the issues he raised on appeal because the appellate courts independently reviewed the entire record before the district court when reviewing decisions to execute the underlying sentence without reduction. The questionable transcripts are necessary to review Mr. Brazier's claim that the State Court abused its discretion when it denied his in-camera. For purposes of determining prejudice, the withheld evidence must be analyzed in the context of the entire record. United States v. Agurs, 427 U.S 97, 112(1976). In other words, an appellate court reviewing a State courts determinations regarding a defendant's sentence conducts an independent review of the entire record to determine if the record supports those decisions.

c. By failing to provide Mr. Brazier with access to the requested transcripts, during direct appeal and post-appeal, the California courts has denied him Due Process because he cannot obtain effective assistance of counsel on appeal.
The United States Supreme Court, relying on GRIFFIN, supra, and its progeny, determined that the Equal Protection Clause of the Fourteenth amendment also gives defendants the right to counsel

on appeal and requires effective representation:

In short, the promise of Douglas that a criminal defendanthas a right to counsel on appeal-like the promise of Gideon that a criminal defendant has a right to trial-would be futile unless it comprehended the right to effective assistance of counsel.

Evitts v. Lucey, 372 U.S. 353, 355-356(1963). As such, the issue is defining what constitutes effective assistance of counsel on appeal.

According to the United States Supreme Court, appellate counsel must make a conscientious examination of the case and file a brief in support of the best arguments to be made. se Anders v. California, 386 U.S. 738(1967). The constitutional requirements of substantial equality and fair process can only be attained where counsel acts as advocate on behalf of his client...[counsel's] role as advocate requires that he support his client's appeal to the best of his ability. Id. In this case, the lack of access to the requested transcript prevented appellate counsel from making a conscientious examination of the case and has potentially prevented appellate counsel from determining whether there is an additional issue to raise or whether there is factual support in favor of, or cutting, any argument made, therefore, Mr. Brazier has not obtained appellate review of the trial court's proceedings based on the merits of his case's claims and likely was not provided with effective assistance of counsel in that endeavor.

These standardsoffer insight into the role and responsibility of appellate counsel. Specifically, those standards state:

Appellate counsel shoiuld give a client his or her best professional evaluation of the questions that might be presented on appeal. Counsel, when inquiring into the case, should consider all issues that might affect the validity of the judgment of conviction and sentence...Counsel should advise on the probable outcome of a challenge to the conviction or sentence. Counsel should endeavor to persuade the client to abandon a wholly frivolous appeal or to eliminate contentions lacking in substabce.

In the absence of the requested transcripts, appellate counsel can neither make a professional evaluation of the questions that might be presented on appeal, nor consider all issues that might have affected the district court's decision to deny a C.O.A. which is now the issue. Further, counsel is unable to advise Mr. Brazier on the probable role the transcripts may play in his appeal. Mr. Brazier is entitled to effective assistance of counsel in this appeal, and effective assistance cannot be given in the absence of access to the relevant transcripts. Thyerewfore, the California Supreme Court's has denied Mr. Brazier his constitutional right to due process and equal protection which includes the right to effective assistance of counsel in this appeal. Accordingly the appellate should be provided with access to the requested transcripts and should be allowed the opportunity to provided any necessary supplemental briefing raising issues which arise as a result of that review.

II. STATE CREATED IMPEDIMNENT

a. The State's non-disclosure was a state -created impediment to filing these new facts and also prevented the facts or claims from being discovered previously through due diligence.

Although the statute of limitations normally runs from the conclusion of direct review, the statute also envisions that the statute " shall run from the latest of" two other circumstances. Under 25 U.S.C. § 2244(d)(1)(B), an impediment to filing an application created by the state action in violation of the constitution can lengthen the statute of limitation by tolling the statute until that impediment is removed. The non-disclosure of evidence, which was the State's duty to disclose, was the impediment in this case. The statute of limitation does not begin to run until date petitioner receives BRADY material, because that is the date on which the constitutional violation by the State, which was an impediment to filing of the petition, is lifted under 28 U.S.C. § 2244(d)(1)(B). In addition, under 28 U.S.C. § 2244(d)(1)(D), the statute of limitation does not begin to run until the date on which the factual predicate of the claim or claims presented could have been discoverded thriugh the exercise of due diligence. Under Douglas V. Workman,.560 F.3d 1156(2009), this court must recognize Brazier's claims as In Douglas, Much like this case, the petitioner did not discover the BRADY evidence and related claims until he had been through years of habeas corpus proceedings. The State attempted to argue that the new claims were barred by the statute of limitation. Id. at 1181. Because the statute requires that the start date be on the date which the factual predicate was discovered - and the state impediment being in-place as here the start date has not been established.

b. Equitable Tolling

In Mitchell v. Jones, 2008 U.S. Dist. Lexis 13126 (E.D. Okla. 2008) (unpublished), the habeas petitioner alleged a BRADY claim based upon the State's failure to disclose a videotape which contained critical impeachment evidence. Id. at *1. On habeas, the state alleged the petition was untimely but petitioner alleged it was timely under either (d)(1)(B) or (D). Id. at *2. In state court, petitioner hsd been blamed for not uncovering the videoyape through due diligence, even though the prosecution had an obligation to turn it over. Id. at *3-4. The federal habeas court held that the state court was " incorrect in placing the burden of discovery of the videotape on petitioner, in stead of the prosecution." at *4. For thjis same reason, the statute of limitatiion did not begin to run until post-conviction counsel received the videotape - the date upon which he discovered the factual predicate of his claim under 2244(d)(1)(D). Id.

Respondent has taken the position, in state and federal courts, that Brazier is procedurally barred because the BRADY information did not come to light in time for Brazier to meet his deadlines. However, procedurally bars which would prevent the presentation of Brady claims cannot stand constitutional scrutiny. TO hold otherwise would allow the state to benefit from their own wrongdoing. The statute of limitation may also be tolled if the inmate: 1) pursues his claims diligently and 2) the failure to file in a timely manner was caused by extraordinary circumstances that were outside of his control. March v. Soares, 223 F.3d. 1217, 1220 (19th Cir. 2000). Should this court find that equitable tolling is necessary in order for this court to review his claims, Brazier

request a hearing on equitable tolling, given the factual intensive nature of the inquiry. Because equitable tolling is a discreationary doctrine, it turns on individual facts, so there are no hard and fast rules regarding its application. Fisher v. Johnson, 174 F.3d 710, 713(5th Cir. 1999). The state's action, in misleading Brazier about the nonexistence of this information, can provide a basis for equitable tolling. see Wardlaw v. Cain 541 F.3d 275, 279 (5th Cir. 2008) (the same facts supporting Brady claim [will] also support the application of the doctrine of equitable tolling.) Kreutzer v. Bowersox, 231 F.3d 460, 463 (8th Cir. 2000) (nothing that equitable tolling is appropriate where the conduct of the [respondent] has lulled the petitioner into inaction.)

III. INEFFECTIVE ASSISTANCE OF COUNSEL

This petition presents a recurring question of exceptional importance for criminal defendants seeking to vindicate their Sixth Amendment right to effective assistance of counsel. The ninth circuit's decision below departs from this court's precedent and deepens a circuit split on a question that is central to the analysis of claims under Strictland v. Washington, 466 U.S. 668 (1984): Whether a court may rely on the testimony of an attorney who conducted a deficient investigation to determe whether a failure to investigate and present evidence prejudicea defendant. This court should grant the petition to reaffirm its Strictland precedent and ensure that ineffective assistance claims do not turn on attorneys' uninformed views about evidence they did not investigate.

In this case, the ninth circuit assumed that trial counsel adequately investigated the life and mental health history of petitioner because the trial counsel's inadequate investigation of and failure to present life and mental health history did not undermine confidence in the outcome of Brazier's trial. In doing so, the court relied on trials counsel's testimony that he did not believe that Brazier's life and mental health histopry was necessary and that he didn't think that what the mental health and life historry could add would have been greatly beneficial or would have even improved upon Brazier's testimony. The decision below thus based its prejudiced determination on an attorney failed to adequately investigate rather than an independent assesment of that evidence and whether it undermined confidence in a conviction.

The ninth circuit's prejudice analysis directly conflicts with this court's decision in Wiggins v. Smith, which refused to rely on an uninformed attorney's testimony that an investigation would not have altered their chosen strategy when analyzing prejudice. 539 U.S. 510, 534-536 (2003).

The focal point of the prejudice inquiry is the evidence that would have been presented if counsel had performed adequately in evaluating whether counsel's error undermines confidence in the outcome, a particular attorney's view about the value of evidence should carry no weight - especially where that attorney did not adequately investigate it. An attorney's views about evidence he did not investigate is, by definition, speculative. Under those circumstances, the only information an attorney can provide is whether the uninvestigated

evidence would have changed his strategy. But that is not the relevant inquiry for assessing prejudice. The inquiry instead depends on a court's independent determination about that evidence.

As to performance, a defendant must show how counsel's representation fell below an objective standard of reaonableness. Id. at 687-688.

A reasdonable probability thatis sufficient to undermine confidence in the outcome is a probability that is sufficient. Id. at 694.

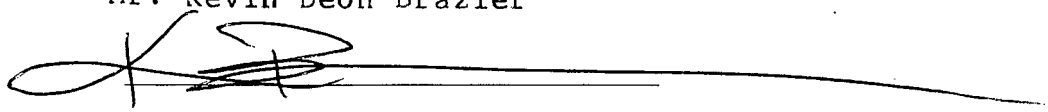
A court assessing the defendant claim must reweight the evidence presented against the totality of evidence that would have been available but for counsel's error. Wiggins v. Smith, 539 U.S. 510, 534 (2003).

When a state court's decision does not address an issue, however section 2254(d)'s deferential standard does not apply to that issue. see Cone v. Bell, 556 U.S. 449, 472 (2009). Accordingly, where as here, "the state courts" addressing a Strictland claim found [counsel's] representation adequte" and "never reached the issue of prejudice," a federal habeas court reviews prejudice "de novo" Rompilla v. Beard, 545 U.S. 374, 390 (2005); see Wiggins v. Smith, 539 U.S. 510, 534 (2003).

CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,
Mr. Kevin Deon Brazier



Date: May, 10th 2026