Syllabus

NOTE: Where it is feasible, a syllabus (headnote) will be released, as is being done in connection with this case, at the time the opinion is issued. The syllabus constitutes no part of the opinion of the Court but has been prepared by the Reporter of Decisions for the convenience of the reader. See *United States* v. *Detroit Timber & Lumber Co.,* 200 U. S. 321, 337.

SUPREME COURT OF THE UNITED STATES

Syllabus

GREENE, AKA TRICE *v.* FISHER, SUPERINTENDENT, STATE CORRECTIONAL INSTITUTION AT SMITHFIELD, ET AL.

CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE THIRD CIRCUIT

No. 10–637. Argued October 11, 2011—Decided November 8, 2011

During petitioner Greene's trial for murder, robbery, and conspiracy, the prosecution introduced the redacted confessions of two of Greene's nontestifying codefendants. A jury convicted Greene. The Pennsylvania Superior Court upheld the conviction, reasoning that the rule announced in *Bruton* v. *United States*, 391 U. S. 123, did not apply because the confessions were redacted to remove any specific reference to Greene. While Greene's petition to the Pennsylvania Supreme Court was pending, this Court announced in *Gray* v. *Maryland*, 523 U. S. 185, that *Bruton* does apply to some redacted confessions. The Pennsylvania Supreme Court declined to hear Greene's appeal, and he then sought federal habeas relief. Under the Antiterrorism and Effective Death Penalty Act of 1996 (AEDPA), a federal court may not grant such relief to a state prisoner on any claim that has been "adjudicated on the merits in State court proceedings" 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." 28 U. S. C. §2254(d)(1). Here, the District Court concluded that, because the United States Supreme Court's opinion in *Gray* had not yet been issued when the Pennsylvania Superior Court adjudicated Greene's claim, the condition for granting habeas relief had not been met. The Third Circuit affirmed.

Held:

1. Under §2254(d)(1), "clearly established Federal law, as determined by the Supreme Court of the United States" includes only this

Syllabus

Court's decisions as of the time of the relevant state-court adjudication on the merits. The Court's decision last Term in *Cullen* v. *Pinholster*, 563 U. S. ___, established that §2254(d)(1)'s "backward-looking language requires an examination of the state-court decision at the time it was made." *Id.,* at ___. As the Court explained in *Cullen*, §2254(d)(1) requires federal courts to measure state-court decisions "against this Court's precedents as of 'the time the state court renders its decision.' " *Id.,* at ___. That reasoning determines the result here. Pp. 3–6.

2. Because the Pennsylvania Superior Court's decision—the last state-court adjudication on the merits of Greene's claim—predated *Gray* by nearly three months, the Third Circuit correctly held that *Gray* was not "clearly established Federal law" against which it could measure the state-court decision. It therefore correctly concluded that the state court's decision neither was "contrary to," nor "involved an unreasonable application of," any "clearly established Federal law." Pp. 6–7.

606 F. 3d 85, affirmed.

SCALIA, J., delivered the opinion for a unanimous Court.

SUPREME COURT OF THE UNITED STATES

No. 10–637

ERIC GREENE, AKA JARMAINE Q. TRICE, PETITIONER *v.* JON FISHER, SUPERINTENDENT, STATE CORRECTIONAL INSTITUTION AT SMITHFIELD, ET AL.

ON WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE THIRD CIRCUIT

[November 8, 2011]

JUSTICE SCALIA delivered the opinion of the Court.

Under the Antiterrorism and Effective Death Penalty Act of 1996 (AEDPA), a federal court may not grant habeas relief to a state prisoner with respect to any claim that has been "adjudicated on the merits in State court proceedings" unless the state-court 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." 28 U. S. C. §2254(d)(1). We consider whether "clearly established Federal law" includes decisions of this Court that are announced after the last adjudication of the merits in state court but before the defendant's conviction becomes final.

I

In December 1993, petitioner Eric Greene and four co-conspirators robbed a grocery store in North Philadelphia, Pennsylvania. During the robbery, one of the men shot and killed the store's owner. The five were appre-

hended, and two of them confessed to taking part in the robbery. Greene did not confess, but he was implicated by the others' statements.

When the Commonwealth sought to try all of the co-conspirators jointly, Greene sought severance, arguing, *inter alia*, that the confessions of his nontestifying codefendants should not be introduced at his trial. The trial court denied the motion to sever, but agreed to require redaction of the confessions to eliminate proper names. As redacted, the confessions replaced names with words like "this guy," "someone," and "other guys," or with the word "blank," or simply omitted the names without substitution.

A jury convicted Greene of second-degree murder, robbery, and conspiracy. He appealed to the Pennsylvania Superior Court, arguing that severance of his trial was demanded by the rule announced in *Bruton* v. *United States*, 391 U. S. 123 (1968), that the Confrontation Clause forbids the prosecution to introduce a nontestifying co-defendant's confession implicating the defendant in the crime. The Pennsylvania Superior Court affirmed the conviction, holding that the redaction had cured any problem under *Bruton*.

Greene filed a petition for allowance of appeal to the Pennsylvania Supreme Court, raising the same *Bruton* claim. While that petition was pending, we held in *Gray* v. *Maryland*, 523 U. S. 185, 195 (1998), that "considered as a class, redactions that replace a proper name with an obvious blank, the word 'delete,' a symbol, or similarly notify the jury that a name has been deleted are similar enough to *Bruton*'s unredacted confessions as to warrant the same legal results." The Pennsylvania Supreme Court granted the petition for allowance of appeal, limited to the question whether admission of the redacted confessions violated Greene's Sixth Amendment rights. After the parties filed merits briefs, however, the Pennsylvania Supreme Court dismissed the appeal as improvidently

granted.

Greene then filed a federal habeas corpus petition in the United States District Court for the Eastern District of Pennsylvania, alleging, *inter alia*, that the introduction of his nontestifying codefendants' statements violated the Confrontation Clause. Adopting the report and recommendation of a Magistrate Judge, the District Court denied the petition. It concluded that since our decision in *Gray* was not "clearly established Federal law" when the Pennsylvania Superior Court adjudicated Greene's Confrontation Clause claim, that court's decision was not "contrary to," or "an unreasonable application of, clearly established Federal law." 28 U. S. C. §2254(d)(1).

A divided panel of the United States Court of Appeals for the Third Circuit affirmed. *Greene* v. *Palakovich*, 606 F. 3d 85 (2010). The majority held that the "clearly established Federal law" referred to in §2254(d)(1) is the law at the time of the state-court adjudication on the merits. *Id.,* at 99. The dissenting judge contended that it is the law at the time the conviction becomes final. *Id.,* at 108. We granted certiorari. 563 U. S. ___ (2011).

II

Section 2254(d) of Title 28, U. S. C., as amended by AEDPA, provides:

> "An application for a writ of habeas corpus on behalf of a person in custody pursuant to the judgment of a State court shall not be granted with respect to any claim that was adjudicated on the merits in State court proceedings unless the adjudication of the claim—
>
> "(1) resulted in a decision that was contrary to, or involved an unreasonable application of, clearly established Federal law, as determined by the Supreme Court of the United States; or
>
> "(2) resulted in a decision that was based on an un-

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