

Per Curiam

SUPREME COURT OF THE UNITED STATES

JEFFREY WOODS, WARDEN *v.* CORY DONALD

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

No. 14–618. Decided March 30, 2015

PER CURIAM.

Federal courts may grant habeas corpus relief if the underlying state-court decision was “contrary to, or involved an unreasonable application of, clearly established Federal law, as determined by” this Court. 28 U. S. C. §2254(d)(1). Here, the Sixth Circuit held that respondent Cory Donald’s attorney provided *per se* ineffective assistance of counsel under *United States v. Cronic*, 466 U. S. 648 (1984), when he was briefly absent during testimony concerning other defendants. Because no decision from this Court clearly establishes that Donald is entitled to relief under *Cronic*, we reverse.

I

After a day of drinking and smoking marijuana, Cory Donald and four others—Seante Liggins, Rashad Moore, Dewayne Saine, and Fawzi Zaya—decided to rob a drug dealer named Mohammed Makki. Donald, Moore, and Liggins drove to Makki’s home in Dearborn, Michigan, wearing black skull caps and coats. Moore and Donald entered the house, while Liggins waited in the car.

Michael McGinnis, one of Makki’s drug runners, was in the house at the time. When Donald and Moore came through the door, McGinnis raised his hands and dropped face-down to the floor. He heard a scuffle in the kitchen and two gunshots as someone said, “[L]et it go.” *Donald v. Rapelje*, 580 Fed. Appx. 277, 279 (CA6 2014). After that, McGinnis felt a gun on the back of his head while someone rifled through his pockets saying, “[W]hat you

Per Curiam

got, what you got?” *Donald v. Rapelje*, 2012 WL 6047130, *3 (ED Mich., Dec. 5, 2012). He also heard one of the two men whisper to the other, “I got shot, I got shot.” 580 Fed. Appx., at 279. After Moore and Donald left, McGinnis found Makki slumped against the refrigerator dying.

About seven minutes after they entered the house, Moore and Donald returned, guns in hand, to Liggins’ car. Donald told the others that he had stolen \$320 and that Moore had accidentally shot him during the crime. That night, Donald checked into a hospital for a gunshot wound to his foot. Police arrested him about three weeks later.

The State charged Donald with one count of first-degree felony murder and two counts of armed robbery. Liggins and Zaya pleaded guilty, and Donald was tried with Moore and Saine. His defense theory was that he was present at the scene of the crime but he did not participate. At trial, the government sought to admit a chart chronicling phone calls from the day of the crime among Moore, Saine, and Zaya. Moore and Saine’s attorneys objected, but Donald’s attorney declined, saying: “I don’t have a dog in this race. It does not affect me at all.” *Id.*, at 280. The court admitted the exhibit and took a short recess.

When the trial resumed, Donald’s counsel was not in the courtroom. At first, the judge indicated that he would wait for the attorney. But he then decided to proceed because Donald’s counsel had already indicated that the exhibit and testimony did not apply to his client. About 10 minutes later, the lawyer returned. The judge informed him that “‘up until that point we only were discussing the telephone chart,’” to which the attorney replied, “[Y]es, your Honor, and as I had indicated on the record, I had no dog in the race and no interest in that.” *Ibid.*

The jury found Donald guilty on all three counts. He was sentenced to life imprisonment for the felony-murder count and to concurrent prison terms of 10½ to 20 years for each of the armed robbery counts. On appeal, Donald

Per Curiam

argued that he was entitled to a new trial because his attorney's absence during the phone call testimony denied him his Sixth Amendment right to effective assistance of counsel. The Michigan Court of Appeals rejected his claim, and the Michigan Supreme Court denied review.

The United States District Court for the Eastern District of Michigan granted federal habeas relief, and the Sixth Circuit affirmed. The Sixth Circuit held that the Michigan Court of Appeals' decision was both contrary to and involved an unreasonable application of this Court's decision in *Cronic*. In the normal course, defendants claiming ineffective assistance of counsel must satisfy the familiar framework of *Strickland v. Washington*, 466 U. S. 668, 687 (1984), which requires a showing that "counsel's performance was deficient" and "that the deficient performance prejudiced the defense." And when reviewing an ineffective-assistance-of-counsel claim, "a court must indulge a strong presumption that counsel's conduct falls within the wide range of reasonable professional assistance." *Id.*, at 689.

In *Cronic*, however, we held that courts may presume that a defendant has suffered unconstitutional prejudice if he "is denied counsel at a critical stage of his trial." 466 U. S., at 659. And in *Bell v. Cone*, 535 U. S. 685, 696 (2002), we characterized a "critical stage" as one that "held significant consequences for the accused." According to the Sixth Circuit, these statements should have compelled the Michigan court to hold that the phone call testimony was a "critical stage" and that counsel's absence constituted *per se* ineffective assistance. Without identifying any decision from this Court directly in point, the Sixth Circuit concluded that the relevant testimony in this case was "similar to" our cases applying *Cronic*. 580 Fed. Appx., at 284.

Per Curiam

II

A

Under the Antiterrorism and Effective Death Penalty Act of 1996 (AEDPA), 110 Stat. 1214, a federal court may grant habeas relief only when a state court’s decision on the merits was “contrary to, or involved an unreasonable application of, clearly established Federal law, as determined by” decisions from this Court, or was “based on an unreasonable determination of the facts.” 28 U. S. C. §2254(d). Donald does not argue that the state-court decision in his case was factually erroneous. Instead, he argues that the decision was both contrary to and involved an unreasonable application of this Court’s ineffective-assistance-of-counsel cases.

AEDPA’s standard is intentionally ““difficult to meet.”” *White v. Woodall*, 572 U. S. ___, ___ (2014) (slip op., at 3) (quoting *Metrish v. Lancaster*, 569 U. S. ___, ___ (2013) (slip op., at 5)). We have explained that “‘clearly established Federal law’ for purposes of §2254(d)(1) includes only the holdings, as opposed to the dicta, of this Court’s decisions.” *White*, 572 U. S., at ___ (slip op., at 3) (some internal quotation marks omitted). “And an ‘unreasonable application of’ those holdings must be objectively unreasonable, not merely wrong; even clear error will not suffice.” *Id.*, at ___ (slip op., at 3–4) (same). To satisfy this high bar, a habeas petitioner is required to “show that the state court’s ruling on the claim being presented in federal court 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. 83, 103 (2011).

Adherence to these principles serves important interests of federalism and comity. AEDPA’s requirements reflect a “presumption that state courts know and follow the law.” *Woodford v. Visciotti*, 537 U. S. 19, 24 (2002) (*per curiam*). When reviewing state criminal convictions on collateral

Per Curiam

review, federal judges are required to afford state courts due respect by overturning their decisions only when there could be no reasonable dispute that they were wrong. Federal habeas review thus exists as “a guard against extreme malfunctions in the state criminal justice systems, not a substitute for ordinary error correction through appeal.” *Harrington, supra*, at 102–103 (internal quotation marks omitted). This is especially true for claims of ineffective assistance of counsel, where AEDPA review must be ““doubly deferential”” in order to afford “both the state court and the defense attorney the benefit of the doubt.” *Burt v. Titlow*, 571 U. S. ___, ___ (2013) (slip op., at 1) (quoting *Cullen v. Pinholster*, 563 U. S. 170, ___ (2011) (slip op., at 17)).

B

The Sixth Circuit should not have affirmed the *Cronic*-based grant of habeas relief in this case. The Michigan Court of Appeals’ decision was not contrary to any clearly established holding of this Court. We have never addressed whether the rule announced in *Cronic* applies to testimony regarding codefendants’ actions. In *Cronic* itself, we rejected the defendant’s claim that his counsel’s lack of experience and short time for preparation warranted a presumption of prejudice, not a claim based on counsel’s absence. See 466 U. S., at 663–666. When announcing the rule in *Cronic*, we cited earlier cases finding prejudice where “counsel was either totally absent, or prevented from assisting the accused during a critical stage of the proceeding.” *Id.*, at 659, n. 25. But none of those cases dealt with circumstances like those present here. And *Bell* did not involve the absence of counsel; instead, we declined to presume prejudice where a capital defendant’s counsel “failed to ‘mount some case for life’ after the prosecution introduced evidence in the sentencing hearing and gave a closing statement.” 535 U. S., at

Explore Litigation Insights

Docket Alarm provides insights to develop a more informed litigation strategy and the peace of mind of knowing you're on top of things.

Real-Time Litigation Alerts



Keep your litigation team up-to-date with **real-time alerts** and advanced team management tools built for the enterprise, all while greatly reducing PACER spend.

Our comprehensive service means we can handle Federal, State, and Administrative courts across the country.

Advanced Docket Research



With over 230 million records, Docket Alarm's cloud-native docket research platform finds what other services can't. Coverage includes Federal, State, plus PTAB, TTAB, ITC and NLRB decisions, all in one place.

Identify arguments that have been successful in the past with full text, pinpoint searching. Link to case law cited within any court document via Fastcase.

Analytics At Your Fingertips



Learn what happened the last time a particular judge, opposing counsel or company faced cases similar to yours.

Advanced out-of-the-box PTAB and TTAB analytics are always at your fingertips.

API

Docket Alarm offers a powerful API (application programming interface) to developers that want to integrate case filings into their apps.

LAW FIRMS

Build custom dashboards for your attorneys and clients with live data direct from the court.

Automate many repetitive legal tasks like conflict checks, document management, and marketing.

FINANCIAL INSTITUTIONS

Litigation and bankruptcy checks for companies and debtors.

E-DISCOVERY AND LEGAL VENDORS

Sync your system to PACER to automate legal marketing.