NOT FOR PUBLICATION

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MOLLY C. DWYER, CLERK
U.S. COURT OF APPEALS

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

MICHAEL BONFIGLIO, Petitioner - Appellant, v. DANNY SAMUEL, Respondent - Appellee.	No. 24-3265 D.C. No. 2:16-cv-02349-RGK-AGR MEMORANDUM*

Appeal from the United States District Court
for the Central District of California
R. Gary Klausner, District Judge, Presiding

Submitted June 24, 2026**
Pasadena, California

Before: FRIEDLAND, FORREST, and DESAI, Circuit Judges.

Petitioner Michael Bonfiglio appeals the district court's denial of his habeas corpus petition, brought under 28 U.S.C. § 2254, following his convictions for first-degree murder, conspiracy to commit robbery, and second-degree robbery

* This disposition is not appropriate for publication and is not precedent except as provided by Ninth Circuit Rule 36-3.

** The panel unanimously concludes this case is suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

under California law. Petitioner argues that juror misconduct deprived him of his right to a fair trial.[1] We have jurisdiction under 28 U.S.C. § 1291, and we affirm.

We review de novo a district court's denial of a habeas petition. *Murray v. Schriro*, 882 F.3d 778, 801 (9th Cir. 2018). "We may affirm the district court's decision on any ground supported by the record, even if it differs from the district court's rationale." *Lambert v. Blodgett*, 393 F.3d 943, 965 (9th Cir. 2004). Petitioner filed his petition for a writ of habeas corpus after April 24, 1996, so the Antiterrorism and Effective Death Penalty Act ("AEDPA") applies to his claims. *Murray*, 882 F.3d at 801. Under AEDPA, we cannot grant habeas relief on any claim adjudicated on the merits in state court unless the petitioner establishes that "the state court's decision (1) was contrary to clearly established federal law as determined by the Supreme Court, (2) 'involved an unreasonable application of' such law, or (3) that it 'was based on an unreasonable determination of the facts' in light of the record before the state court." *Fairbank v. Ayers*, 650 F.3d 1243, 1251 (9th Cir. 2011) (quoting *Harrington v. Richter*, 562 U.S. 86, 100 (2011)); 28 U.S.C. § 2254(d). De novo review of a claim adjudicated on the merits by a state court is available only if the decision "does not withstand deferential scrutiny under [28

[1] Petitioner raised additional arguments in the district court and in the California Supreme Court. We need not resolve any dispute about whether his additional arguments were exhausted, because Bonfiglio forfeited them by failing to raise them in his opening brief. *Padgett v. Wright*, 587 F.3d 983, 985 n.2 (9th Cir. 2009).

U.S.C.] § 2254(d)." *Amado v. Gonzalez*, 758 F.3d 1119, 1131 (9th Cir. 2014). We review the district court's findings of fact for clear error. *Kemp v. Ryan*, 638 F.3d 1245, 1254 (9th Cir. 2011).

1. After holding a hearing based on *Godoy v. Spearman*, the district court concluded that the jury foreman's improper contact with a non-juror who knew Petitioner's girlfriend was harmless. 861 F.3d 956, 968-69 (9th Cir. 2017) (en banc) ("Harmlessness in this context means 'that there is no reasonable possibility that the communication . . . influence[d] the verdict.'" (alteration in original) (quoting *Caliendo v. Warden of Cal. Men's Colony*, 365 F.3d 691, 697 (9th Cir. 2004))). Petitioner offers no reason that the district court's determination was erroneous, and we locate no error in our own review.[2]

2. The California Court of Appeal held that "[t]here is no substantial likelihood" that the jury foreman's online research about the effects of methamphetamine improperly influenced any juror. *See, e.g.*, *Smith v. Swarthout*,

[2] Respondent no longer challenges the validity of the evidentiary hearing, including whether the district court properly determined that AEDPA's deferential standard of review does not apply before expanding the evidentiary record beyond what was presented to the state court. *See Cullen v. Pinholster*, 563 U.S. 170, 181 (2011) ("[R]eview under § 2254(d)(1) is limited to the record that was before the state court that adjudicated the claim on the merits."); *Godoy*, 861 F.3d at 966, 970 n.8 (finding AEDPA deference unwarranted and explaining, "[b]ecause we evaluate Godoy's claim de novo, the Supreme Court's decision in *Cullen v. Pinholster* does not preclude remand for an evidentiary hearing in the district court" (internal citation omitted)). Accordingly, we assume without deciding that the evidentiary hearing was appropriate and analyze this claim accordingly.

742 F.3d 885, 894 (9th Cir. 2014) ("On collateral review, trial errors—such as extraneous information that was considered by the jury—are generally subject to a harmless error analysis, namely, whether the error had [a] substantial and injurious effect or influence in determining the jury's verdict." (citation modified)). It explained that "[t]he effect of methamphetamine was neither an element of the case made by the prosecution nor part of [Petitioner's] defense" and offered as an example that Petitioner could have argued, but did not argue, that "he was under the influence of methamphetamine or some other controlled substance to the point that his capacity to form the intent to kill was diminished or extinguished." The California Supreme Court summarily denied discretionary review of that decision on the same day that it denied Petitioner's state habeas petition, which presented supplemental evidence supporting Petitioner's juror-misconduct allegations. Petitioner does not establish that the state court relied on an unreasonable application of clearly established law or an unreasonable application of the facts. *See Fairbank*, 650 F.3d at 1251; 28 U.S.C. § 2254(d). And we conclude from the record that the state court decision was not "objectively unreasonable." *Murray*, 882 F.3d at 802 (citation omitted).

AFFIRMED.[3]

[3] Petitioner's motion to file a partially redacted supplemental excerpts of record, Docket No. 33, is granted.