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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

WILLIAM POLLARD,

Petitioner - Appellant,

v.

ROB ST. ANDRE, Warden,

Respondents - Appellees.

No. 25-5309

D.C. No.

2:24-cv-01747-WBS-AC

MEMORANDUM*

Appeal from the United States District Court
for the Eastern District of California
William B. Shubb, District Judge, Presiding

Submitted October 20, 2026**
San Francisco, California

Before: S.R. THOMAS, KOH, and TUNG, Circuit Judges.

William Pollard appeals the district court's denial of his petition for a writ of habeas corpus. Pollard argues that the prosecutor's use of a peremptory challenge to strike a Black juror, Ms. S, violated his Fourteenth Amendment rights under

* 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).

Batson v. Kentucky, 476 U.S. 79, 89 (1986). Because the parties are familiar with the factual and procedural history of the case, we need not recount it here.

We have jurisdiction under 28 U.S.C. §§ 1291 and 2253. We review de novo a district court’s denial of a petition for a writ of habeas corpus. *Boyd v. Newland*, 467 F.3d 1139, 1143 (9th Cir. 2006). Under the Antiterrorism and Effective Death Penalty Act of 1996 (“AEDPA”), we may grant relief on a claim adjudicated on the merits by the state court only if the state court’s decision “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), or was “based on an unreasonable determination of the facts in light of the evidence presented in the State court proceeding,” *id.* § 2254(d)(2). The decision of the California Court of Appeal (the “CCA”) on direct review is the “the last reasoned state court decision” and the subject of our review. *Delgadillo v. Woodford*, 527 F.3d 919, 925 (9th Cir. 2008).

The district court correctly denied Pollard’s habeas petition. Pollard has not established that the CCA’s decision met either prong of 28 U.S.C. § 2254(d).

The district court properly concluded that the CCA’s decision to deny Pollard’s *Batson* challenge was neither contrary to nor involving an unreasonable application of clearly established federal law. A decision by a state court is “contrary to” clearly established federal law if it “applies a rule that contradicts the governing law” set by the Supreme Court or if it “confronts a set of facts that are materially indistinguishable from a decision of [the Supreme Court]” and reaches a different result. *Williams v. Taylor*, 529 U.S. 362, 405–06 (2000). A decision by a state court unreasonably applies clearly established federal law when the state court “identifies the correct governing legal principle . . . but unreasonably applies that principle to the facts” of a case. *Id.* at 413.

Pollard argues that, in conducting its comparative juror analysis, the CCA improperly relied on differences between the jurors that were unrelated to the prosecutor’s reasoning for striking Ms. S. Pollard does not identify clearly established federal law requiring a court to limit its comparative analysis to factors cited by the prosecutor. Pollard cites *Miller-El II*, in which the Supreme Court noted that “[i]f the [prosecutor’s] stated reason does not hold up, its pretextual significance does not fade because a trial judge, or an appeals court, can imagine” a plausible reason for the strike. *Miller-El v. Dretke*, 545 U.S. 231, 252 (2005) (“*Miller-El II*”). While courts may not “substitut[e] . . . a reason” to rehabilitate an

otherwise impermissible strike, *Miller-El II* did not prohibit courts from mentioning other differences between potential jurors. *Id.*

Moreover, the CCA’s comparative analysis was not an unreasonable application of clearly established federal law. The CCA squarely addressed the jurors’ views on circumstantial evidence, and it was permitted to consider a *Batson* challenge “in light of all evidence with a bearing on it.” *Id.* In that context, the CCA’s consideration of the additional factors was not an unreasonable application of clearly established federal law “with which no fairminded jurist would agree.” *Andrew v. White*, 604 U.S. 86, 92 (2025).

Nor did clearly established federal law require the state court to address the prosecutor’s allegedly disparate questioning of Ms. S. Evidence of disparate questioning can supply evidence of discrimination. *Flowers v. Mississippi*, 588 U.S. 284, 310–11 (2019). However, “state court[s] need not make detailed findings addressing all the evidence,” *Miller-El v. Cockrell*, 537 U.S. 322, 347 (2003), and disparate questioning “alone does not constitute a *Batson* violation,” *Flowers*, 588 U.S. at 310. The prosecutor’s focus on Ms. S followed from her answers, “reflect[ing] ordinary race-neutral considerations.” *Id.*

The district court also properly concluded that the CCA's decision to deny Pollard's *Batson* challenge was not based on an unreasonable factual determination. Our review under 28 U.S.C. § 2254(d)(2) is "doubly deferential: unless the state appellate court was objectively unreasonable in concluding that a trial court's . . . determination was supported by substantial evidence, we must uphold it." *Briggs v. Grounds*, 682 F.3d 1165, 1170 (9th Cir. 2012).

Pollard did not establish that the CCA unreasonably concluded that Ms. S would be unwilling to infer intent from circumstantial evidence alone, while Juror No. 10 would be willing to do so. While both jurors indicated that they would look to the totality of the evidence to draw a conclusion, Ms. S stated that she "need[ed] more" than the prosecutor's hypothetical to determine intent. Juror No. 10, by contrast, agreed to the prosecutor's characterization that by looking at "everything that happened" she was still "using that information to make a conclusion about what's in someone's mind [and] what their intent is." Even if "reasonable minds reviewing the record might disagree," that disagreement "does not suffice to supersede the trial court's determination." *Wood v. Allen*, 558 U.S. 290, 301 (2010) (citation modified).

Pollard also asserts that the CCA unreasonably credited the prosecutor's reasons for striking Ms. S: that she seemed unwilling or unable to apply circumstantial evidence to determine intent and that she was willing to obscure her beliefs to appease the prosecutor on the issue of circumstantial evidence. The CCA's conclusion was not objectively unreasonable. Ms. S consistently expressed skepticism in response to the prosecutor's hypotheticals on circumstantial evidence.

Ms. S also stated, "I don't know what you want me to say," when asked her views on circumstantial evidence. And the prosecutor observed that she thought Ms. S was "guessing what the right answer might be" in response to questions on circumstantial evidence. Pollard has not established that the CCA "had no permissible alternative but to reject the prosecutor's race-neutral justifications."

Rice v. Collins, 546 U.S. 333, 341 (2006).

III

Because Pollard has satisfied neither prong of § 2254(d), the district court correctly concluded that his habeas petition must be denied.

AFFIRMED.