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U.S. COURT OF APPEALS

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

MICHAEL X. VALLE, Petitioner - Appellant, v. KRIS MAYES, Respondent - Appellee.	No. 25-4650 D.C. No. 4:23-cv-00224-AMM MEMORANDUM[*]

Appeal from the United States District Court
for the District of Arizona
Angela M. Martinez, District Judge, Presiding

Submitted October 29, 2026[**]
Phoenix, Arizona

Before: GRABER, HURWITZ, and BADE, Circuit Judges.

Michael Valle appeals the district court's denial of his petition for a writ of habeas corpus under 28 U.S.C. § 2254. Valle asserts that the state trial court violated the Sixth Amendment right to a unanimous jury by striking a juror for

[*] 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).

cause during trial.

At trial, the State presented blood tests to establish Valle's blood alcohol content. As allowed by Arizona Rule of Criminal Procedure 18.6(e), a juror submitted a note to the trial court. The note stated: "I cannot vote a guilty verdict because I don't know the accuracy of the tests." During questioning by the court, the juror said that he could follow the court's instructions, but he expressed concern about the absence of evidence concerning standard deviations. After questioning the juror, the trial court granted the State's motion to strike the juror for cause.

Valle was convicted on two counts of driving under the influence of alcohol, both misdemeanors, after the remaining jurors returned a guilty verdict. After exhausting state court remedies, he filed a § 2254 habeas petition, which the district court denied. This court then issued a certificate of appealability. We have jurisdiction over Valle's appeal under 28 U.S.C. § 2253(a), and we affirm.

1. Valle contends that, because his Sixth Amendment claim was not "adjudicated on the merits in State court," we owe no deference under the Antiterrorism and Effective Death Penalty Act (AEDPA) to the state court's decision. *Patsalis v. Shinn*, 47 F.4th 1092, 1097 (9th Cir. 2022) (quoting *Johnson v. Williams*, 568 U.S. 289, 292 (2013)). But we "must presume" that a state court adjudicated a federal claim presented to it on the merits even "[w]hen a state court

rejects a federal claim without expressly addressing that claim." *Johnson*, 568 U.S. at 301.

AEDPA deference applies here. Valle squarely presented his Sixth Amendment claim to the state trial and appellate courts. Those courts directly considered and rejected the claim.

2. AEDPA deference mandates that a petitioner seeking § 2254 habeas relief establish that a state court 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); *Cullen v. Pinholster*, 563 U.S. 170, 181 (2011). The Supreme Court has held that a state court decision is "contrary to" clearly established precedents if it "'applies a rule that contradicts the governing law set forth in our cases' or if it 'confronts a set of facts that are materially indistinguishable from a decision of this Court and nevertheless arrives at a result different from our precedent.'" *Early v. Packer*, 537 U.S. 3, 8 (2002) (per curiam) (quoting *Williams v. Taylor*, 529 U.S. 362, 405–406 (2000)). The state court decision must be "more than incorrect or erroneous"; its "application of clearly established law must be objectively unreasonable." *Lockyer v. Andrade*, 538 U.S. 63, 75 (2003). Thus, the issue before us is not how we would decide the Sixth Amendment issue if presented on direct appeal or whether the state court judge who dissented in the post-conviction review

proceedings was correct. The issue is instead whether the state court decision contravenes *existing* Supreme Court precedent.

Relying on *Ramos v. Louisiana*, 590 U.S. 83, 89–90 (2020), Valle argues that the state trial court violated his Sixth Amendment right to a unanimous jury by removing a juror because he expressed doubt about the State's case during trial. But *Ramos* concerned only whether the Sixth Amendment requires a unanimous verdict to support a conviction, *Ramos*, 590 U.S. at 89–93, and not whether striking a juror for cause during trial violates the unanimity requirement. It therefore does not clearly establish that excusing the juror in this case was objectively unreasonable under AEDPA.

Valle also relies on *United States v. Symington*, 195 F.3d 1080, 1087 (9th Cir. 1999), to argue that, "[w]hen the record shows any reasonable possibility that the impetus for a juror's dismissal stems from the juror's views on the merits of the case, the court must not dismiss the juror." But "circuit precedent does not constitute 'clearly established Federal law, as determined by the Supreme Court.'" *Parker v. Matthews*, 567 U.S. 38, 48 (2012) (per curiam) (quoting 28 U.S.C. § 2254(d)(1)). Indeed, the Supreme Court has expressly held that *Symington* does not so qualify. *Johnson*, 568 U.S. at 395.

Valle further argues that, in this case, the Arizona courts improperly extended the rule in *Wainwright v. Witt*, 469 U.S. 412 (1985), "to situations where

a juror was empaneled and heard evidence." But he failed to present this argument before the district court, and therefore we decline to consider it. *See Villanueva v. California*, 986 F.3d 1158, 1164 n.4 (9th Cir. 2021) (an issue is usually forfeited on appeal if argument was not raised sufficiently for a trial court to rule on it). In any event, he cites, and we have found, no relevant Supreme Court decision contrary to the Arizona courts' decision.

3. Finally, Valle argues that the trial court unreasonably determined that the excused juror was unwilling to follow the law. However, Valle did not present this issue in his habeas petition, raising it only in passing in a reply memorandum in the district court. Therefore, we decline to consider it.

AFFIRMED.