

UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF
CALIFORNIA

Andre T. Poole v. Pat Horn

Poole v. Horn · No. 20-cv-02283-HSG · Decided November 7, 2025

SUMMARY

The United States District Court for the Northern District of California denied Andre T. Poole’s petition for a writ of habeas corpus under 28 U.S.C. § 2254. The court rejected claims concerning the use of CALCRIM No. 361 and alleged prosecutorial misconduct, applying AEDPA deference and procedural-default principles. The court concluded that any instructional error did not have a substantial and injurious effect on the verdict.

CASE DETAILS

COURT	United States District Court for the Northern District of California
WRITING FOR THE COURT	Haywood S. Gilliam, Jr.
JURISDICTION	United States District Court for the Northern District of California
DECIDED	November 7, 2025
DOCKET	20-cv-02283-HSG
DISPOSITION	dismissed
PROCEDURAL POSTURE	Petition for a writ of habeas corpus under 28 U.S.C. § 2254 challenging a California state-court conviction and sentence.
STANDARD OF REVIEW	Under AEDPA, relief is unavailable on a claim adjudicated on the merits in state court unless the state decision was contrary to, or involved an unreasonable application of, clearly established Supreme Court law, or was based on an unreasonable determination of the facts under 28 U.S.C. § 2254(d). State-court factual findings receive a presumption of correctness under § 2254(e)(1). For instructional-error claims, the federal court asks whether the error so infected the entire trial that the conviction violated due process and, if so, whether it had a substantial and injurious effect under Brecht. Prosecutorial-misconduct claims are reviewed for whether the remarks rendered the trial fundamentally unfair. Ineffective-assistance claims are reviewed under the doubly deferential Strickland-AEDPA framework.

PRECEDENTIAL VALUE	Unpublished federal district-court order; nonprecedential except as permitted by applicable rules.
PARTIES	Andre T. Poole v. Pat Horn

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QUESTIONS PRESENTED

1. Whether the trial court's use of CALCRIM No. 361 concerning a defendant's failure to explain or deny adverse evidence violated Poole's federal due-process rights.
2. Whether prosecutorial comments during closing argument, including comments concerning defense counsel and Poole's purported robbery conduct, rendered the trial fundamentally unfair.
3. Whether trial counsel provided ineffective assistance by failing to object to portions of the prosecutor's closing argument.
4. Whether the cumulative effect of the asserted errors warranted federal habeas relief.

HOLDINGS

1. The state courts' rejection of Poole's challenge to CALCRIM No. 361 was not contrary to or an unreasonable application of clearly established federal law, and any assumed instructional error did not have a substantial and injurious effect on the verdict.
2. The prosecutorial-misconduct claim did not warrant habeas relief because the procedurally defaulted portions were barred by an adequate and independent state ground, and the remaining comments did not render the trial fundamentally unfair.
3. The state court reasonably rejected Poole's claim that trial counsel was ineffective for failing to object to the prosecutor's comments.
4. Poole was not entitled to habeas relief based on cumulative error because the court found no constitutional errors to accumulate.

KEY QUOTATIONS

“The petition for a writ of habeas corpus is DENIED, Dkt. No. 1, and a certificate of appealability is DENIED.” (Section V)

“Habeas relief is thus denied as to this claim.” (Section IV.A)

FACTUAL BACKGROUND

Poole and associates encountered Derrick Williams at an Oakland gas station while arranging a purchase of Xanax. Surveillance video and witness testimony showed Poole take the pills, grab Williams's chains, produce a firearm, and shoot Williams multiple times at close range; Williams died at the scene. Williams possessed a firearm but did not raise or point it at Poole. Poole was arrested approximately one week later.

PROCEDURAL HISTORY

A jury convicted Poole in Alameda County Superior Court of first-degree murder, attempted voluntary manslaughter, and possession of a firearm by a felon, and found firearm enhancements true. The California Court of Appeal affirmed the judgment but remanded for possible resentencing concerning the firearm enhancement; the California Supreme Court summarily denied review. After filing this federal habeas petition, Poole obtained a stay to exhaust additional claims, later litigated those claims in the California courts, and proceeded in federal court on claims concerning jury instructions, prosecutorial misconduct, ineffective assistance of counsel, and cumulative error. The district court denied the petition and denied a certificate of appealability.

DISPOSITION

dismissed

CASES CITED

- Nasby v. McDaniel, 853 F.3d 1049, 1055 (9th Cir. 2017)
- Williams v. Taylor, 529 U.S. 362, 404-08, 412-13 (2000)
- Mitchell v. Esparza, 540 U.S. 12, 17 (2003)
- Harrington v. Richter, 562 U.S. 86, 98, 102 (2011)
- People v. Waidla, 22 Cal. 4th 690, 718, 733 (2000)
- People v. Cortez, 63 Cal. 4th 101, 117, 121-22, 133 (2016)
- Estelle v. McGuire, 502 U.S. 62, 71-72 (1991)
- Brecht v. Abrahamson, 507 U.S. 619, 627, 637 (1993)
- Johnson v. Texas, 509 U.S. 350, 368 (1993)
- Cupp v. Naughton, 414 U.S. 141, 146-47 (1973)
- Calderon v. Coleman, 525 U.S. 141, 146 (1998)
- Kotteakos v. United States, 328 U.S. 750, 776 (1946)
- People v. Berryman, 6 Cal. 4th 1048, 1072 (1993)
- People v. Hill, 17 Cal. 4th 800, 823 n.1 (1998)
- People v. Sassounian, 182 Cal. App. 3d 361, 396 (1986)
- People v. Brady, 50 Cal. 4th 547, 565-66 (2010)
- People v. Gionis, 9 Cal. 4th 1196, 1216-17 (1995)
- People v. Jones, 15 Cal. 4th 119, 168 (1997)
- People v. Herring, 20 Cal. App. 4th 1066, 1075 (1993)

- *People v. Price*, 1 Cal. 4th 324, 447 (1991)
- *People v. Wharton*, 53 Cal. 3d 522, 591 (1991)
- *Coleman v. Thompson*, 501 U.S. 722, 729-30, 750 (1991)
- *Wells v. Maass*, 28 F.3d 1005, 1008 (9th Cir. 1994)
- *Zapata v. Vasquez*, 788 F.3d 1106, 1111-12 (9th Cir. 2015)
- *Inthavong v. Lamarque*, 420 F.3d 1055, 1058 (9th Cir. 2005)
- *Vansickel v. White*, 166 F.3d 953, 957-58 (9th Cir. 1999)
- *McCleskey v. Zant*, 499 U.S. 467, 493 (1991)
- *Murray v. Carrier*, 477 U.S. 478, 488 (1986)
- *Gandarela v. Johnson*, 286 F.3d 1080, 1085-86 (9th Cir. 2002)
- *Darden v. Wainwright*, 477 U.S. 168, 181-82 (1986)
- *Smith v. Phillips*, 455 U.S. 209, 219 (1982)
- *Tan v. Runnels*, 413 F.3d 1101, 1112 (9th Cir. 2005)
- *Deck v. Jenkins*, 814 F.3d 954, 978 (9th Cir. 2016)
- *Johnson v. Sublett*, 63 F.3d 926, 929 (9th Cir. 1995)
- *Trillo v. Biter*, 769 F.3d 995, 1001 (9th Cir. 2014)
- *United States v. Young*, 470 U.S. 1, 19 (1985)
- *United States v. Schuler*, 813 F.2d 978, 982 (9th Cir. 1987)
- *Lincoln v. Sunn*, 807 F.2d 805, 809 (9th Cir. 1987)
- *Strickland v. Washington*, 466 U.S. 668, 686-90, 694 (1984)
- *Cuyler v. Sullivan*, 446 U.S. 335, 344-45 (1980)
- *Cullen v. Pinholster*, 563 U.S. 170, 181, 200-02 (2011)
- *Premo v. Moore*, 562 U.S. 115, 122 (2011)
- *Cheney v. Washington*, 614 F.3d 987, 995 (9th Cir. 2010)
- *Yarborough v. Alvarado*, 541 U.S. 652, 664 (2004)
- *Mays v. Hines*, 141 S. Ct. 1145, 1149 (2021)
- *Shinn v. Kayer*, 141 S. Ct. 517, 524 (2020)
- *Wetzel v. Lambert*, 565 U.S. 520, 524 (2012)
- *Kipp v. Davis*, 971 F.3d 866, 878 (9th Cir. 2020)
- *Kyles v. Whitley*, 514 U.S. 419, 435-36 (1995)
- *Alcala v. Woodford*, 334 F.3d 862, 893-95 (9th Cir. 2003)
- *Thomas v. Hubbard*, 273 F.3d 1164, 1180 (9th Cir. 2001), as amended (Jan. 22, 2002)
- *Payton v. Woodford*, 299 F.3d 815 (9th Cir. 2002)
- *U.S. v. Sager*, 227 F.3d 1138, 1149 (9th Cir. 2000)
- *Slack v. McDaniel*, 529 U.S. 473, 484 (2000)

