

UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF
CALIFORNIA

Lance Ian Osband v. Jason Schultz

Osband v. Schultz · No. 2:97-cv-00152-KJM-CSK · Decided December 30, 2025

SUMMARY

The United States District Court for the Eastern District of California reviewed objections to a magistrate judge’s findings and recommendations in Lance Ian Osband’s 28 U.S.C. § 2254 habeas proceeding. The court adopted the findings and recommendations in part, concluding that the state court’s denial of relief was not entitled to deference as to subclaim C of claim XX, while dismissing claims I, V, IX, and specified subclaims of claim XX. The court granted a certificate of appealability on those claims and directed the parties to submit a joint status report regarding further proceedings.

CASE DETAILS

COURT	United States District Court for the Eastern District of California
JURISDICTION	United States District Court for the Eastern District of California
DECIDED	December 30, 2025
DOCKET	2:97-cv-00152-KJM-CSK
DISPOSITION	other
PROCEDURAL POSTURE	A state prisoner sentenced to death sought federal habeas relief under 28 U.S.C. § 2254. The district court reviewed the assigned Magistrate Judge's findings and recommendations de novo and ruled on the parties' objections concerning claims I, V, IX, and XX of the amended petition.
STANDARD OF REVIEW	The district court reviewed the Magistrate Judge's findings and recommendations de novo. Under 28 U.S.C. § 2254(d), relief is unavailable unless the state-court decision was contrary to, or involved an unreasonable application of, clearly established federal law, or was based on an unreasonable determination of the facts. The court applied the fair-minded-jurist standard.
PRECEDENTIAL VALUE	unpublished district court order
PARTIES	Lance Ian Osband v. Jason Schultz

TOPICS

federal habeas corpus

post-conviction relief

ineffective assistance

sentencing

due process

PRACTICE AREAS

Federal habeas corpus

capital post-conviction litigation

criminal procedure

QUESTIONS PRESENTED

1. Whether the state court reasonably rejected Osband's ineffective-assistance claim based on counsel's failure to investigate or present a third-party-culpability defense.
2. Whether the state court reasonably determined that Osband was competent to stand trial.
3. Whether the state court reasonably determined that Osband was competent to testify and whether counsel's alleged errors caused attributable prejudice.
4. Whether the state court unreasonably rejected the ineffective-assistance claim based on counsel's failure to investigate and present mitigating evidence during the penalty phase.
5. Whether the remaining subclaims of claim XX were abandoned or otherwise failed to satisfy the deferential standard under 28 U.S.C. § 2254(d).
6. Whether Osband was entitled to a certificate of appealability on the dismissed claims.

HOLDINGS

1. The state court reasonably could have denied relief because reasonable and diligent counsel could have concluded that presenting evidence implicating Richard Thomas and W.J. Williams would be unproductive and potentially harmful; therefore, the state-court decision was entitled to deference under § 2254(d), without reaching the adequacy of counsel's investigation.
2. The state court reasonably could have concluded that Osband was competent to stand trial, so its denial of relief was entitled to deference under § 2254(d).
3. The state court reasonably could have concluded that Osband was competent to testify, and Osband failed to connect particular testimony or decisions to a specific deficient act or omission by counsel.
4. The state-court decision rejecting subclaim C was contrary to, or involved an unreasonable application of, clearly established federal law under § 2254(d)(1), because Osband made the required prima facie showing concerning substantial mitigating evidence that could have affected the death sentence.
5. The remaining subclaims were not abandoned or waived, but Osband failed to show that the state-court decisions were contrary to or involved an unreasonable application of clearly established federal law under § 2254(d).
6. Osband was entitled to a certificate of appealability for claims I, V, IX, and claim XX subclaims A, B, D, E, F, and G because reasonable jurists could debate whether the court's conclusions were wrong.

KEY QUOTATIONS

“ “[A] mountain of extremely compelling mitigating evidence was . . . available and could have been presented on [petitioner’s] behalf under clearly established federal law,” and this evidence “may have

induced at least one juror to conclude [p]etitioner did not deserve death.”” (at 4)

“If a precedent of [the Supreme Court] has direct application in a case . . . a lower court should follow the case which directly controls, leaving to [the Supreme] Court the prerogative of overruling its own decisions.” (at 5)

FACTUAL BACKGROUND

Osband was convicted of murdering Lois Skuse and was under sentence of death. He alleged that trial counsel failed to investigate or present evidence implicating third parties, that he was incompetent to stand trial and to testify, and that counsel failed to investigate and present mitigating evidence. The record reflected that substitute counsel did not pursue the third-party defense, that trial-court observations and later expert information supported competency, and that substantial mitigating evidence was available but not presented.

PROCEDURAL HISTORY

The Magistrate Judge issued findings and recommendations addressing the application of 28 U.S.C. § 2254(d) to specified claims. Both parties filed objections, and petitioner filed a reply; the district court adopted the findings and recommendations in part. The court denied deference to the state-court decision on claim XX, subclaim C, dismissed claims I, V, IX, and specified subclaims of claim XX, granted a certificate of appealability as to those dismissed claims, and referred the matter for further proceedings.

DISPOSITION

other

REMAND INSTRUCTIONS

The parties must meet and confer and file, within thirty days, a joint status report proposing a schedule for further resolution of the matter. The case was referred back to the assigned Magistrate Judge for further proceedings.

CASES CITED

- Strickland v. Washington, 466 U.S. 668 (1984)
- Schiro v. Landrigan, 550 U.S. 465, 477 (2007)
- Harrington v. Richter, 562 U.S. 86, 98-99 (2011)
- Rompilla v. Beard, 545 U.S. 374, 392-93 (2005)
- Porter v. McCollum, 558 U.S. 30, 41 (2009)
- Wiggins v. Smith, 539 U.S. 510, 537 (2003)
- Williams v. Taylor, 529 U.S. 362, 398 (2000)
- Slack v. McDaniel, 529 U.S. 473 (2000)
- Loper Bright Enterprises v. Raimondo, 603 U.S. 369 (2024)
- Mallory v. Norfolk S. Ry. Co., 600 U.S. 122, 136 (2023)

OPINION

1 2 3 4 5 6 7 8 UNITED STATES DISTRICT COURT 9 FOR THE EASTERN DISTRICT OF
CALIFORNIA 10 11 Lance Ian Osband, No. 2:97-cv-00152-KJM-CSK. 12 Petitioner, ORDER 13
v. Jason Schultz, 15 Respondent. 16 17 Petitioner Lance Osband is a state prisoner under sentence
of death. He seeks a writ of 18 | habeas corpus.

The matter was referred to the assigned Magistrate Judge under the Local Rules 19 | of this
District. The previously-assigned Magistrate Judge prepared thorough findings and 20 |
recommendations on the application of 28 U.S.C. § 2254(d) to claims I, V, [IX and XX of the 21 |
operative amended petition. ECF Nos. 26, 707.

The parties each object to portions of the 22 | findings and recommendations, and petitioner has
replied to respondent's objections. ECF Nos. 23 | 726,771, 773. The court has reviewed the matter
de novo and has considered the parties' 24 | objections, including those not mentioned expressly in
this order, writing here only to explain 25 | what is necessary to understand the court's decision:
the courts adopts the findings and 26 | recommendations in part. ' Petitioner also filed pro se
objections, ECF No. 710, which the court has disregarded, as he is represented by counsel in this
matter.

1 First, with respect to claim I, the court agrees with the Magistrate Judge's assessment of 2
prejudice under the second part of the two-part test set out in *Strickland v. Washington*, 466 U.S. 3
668 (1984). The state court could reasonably have concluded effective attorneys would not have 4
presented evidence showing third parties, including Richard Thomas and W.J.

Williams, were 5 actually responsible for the death of Lois Skuse. 6 Before trial, Osband had come
to believe his appointed counsel, Burton Loehr, was 7 undermining his defense, in part because
Osband suspected Loehr was persuaded Osband was in 8 fact guilty of Skuse's murder. See, e.g.,
F&Rs at 34–35. Osband instructed Loehr not to pursue 9 any defense that could show he played
any role in the murder, and evidence implicating Thomas 10 and Williams could have implicated
him, at least in part, among other reasons because they were 11 Osband's friends or acquaintances.

See *id.* The court relieved Loehr as Osband's counsel due to 12 Osband's suspicions and distrust,
including his perception Loehr would not follow his 13 instructions; the court appointed substitute
counsel. It would be reasonable for a fair-minded 14 jurist to conclude from this record that
substitute counsel gained and maintained Osband's trust at 15 least in part by following Osband's
previously expressed wishes, i.e., by not pursuing a defense 16 implicating Thomas and Williams,
and thus Osband in turn.

See Respondent's Br. at 116–18 nn. 17 43–44. The Magistrate Judge's alternative assessment of
the record also is reasonable, see F&Rs 18 at 356, but this court must determine whether the state
court's decision rested on “a reasonable 19 determination of the facts” under 28 U.S.C. § 2254,

Schriro v. Landrigan, 550 U.S. 465, 477 20 (2007), even if the state court did not express that determination in a written opinion, see 21 Harrington v. Richter, 562 U.S. 86, 98–99 (2011).

22 Even if Osband released his substitute attorneys from his previous instruction, reasonable 23 and diligent counsel may very well have concluded that attempting to point the finger at Thomas 24 and Williams would be unproductive.

As the Magistrate Judge and respondent both have 25 detailed, the evidence against Thomas and Williams was thin and potentially inadmissible: 26 Osband has relied in significant part on statements that would likely have been inadmissible 27 hearsay if presented at trial in the form he now offers them; no physical evidence connected 28 Thomas and Williams to the crime scene, whereas the prosecution did have physical evidence 1 connecting Osband to the scene; the evidence against Thomas and Williams did not contradict the 2 physical evidence against Osband; and Osband’s own testimony would tend to inculcate him if 3 Thomas and Williams were in fact responsible for the murder.

See F&Rs at 37–47; Respondent’s 4 Br. at 117–24 n.44. Because the state court could reasonably have denied relief on this basis, it is 5 not necessary to consider whether counsel’s investigation into a potential third-party defense fell 6 short of the constitutional standard. Cf. F&Rs at 25–32 (finding petitioner made a prima facie 7 showing of a failure to investigate that could not reasonably have been rejected).

8 Osband argues the Magistrate Judge erred by ignoring evidence about additional suspects 9 as well. See Pet. Obj. at 21–23. But the evidence Osband cites about these other people is vaguer 10 and weaker than the evidence against Thomas and Williams, and he did not develop arguments 11 about this evidence in his brief. See Pet. Br. at 145–49; Pet. Obj. at 21–22.

Osband’s other 12 objections demonstrate no errors in the relevant portions of the Magistrate Judge’s findings and 13 recommendations. The court thus adopts in part the Magistrate Judge’s findings and 14 recommendations with respect to claim I, as specified above. 15 Second, with respect to claim V, the court adopts the Magistrate Judge’s findings 16 recommendation in full.

As the Magistrate Judge explains, the state trial court was obligated to 17 consider the opinions of the mental health professional, Dr. Janak Mehtani, not in isolation, but 18 rather “in light of the entire record before it.” F&Rs at 56. Even though Dr. Mehtani initially 19 opined that Osband was not competent, the trial court had observed Osband and spoken with him 20 and his attorneys at multiple hearings.

See id. at 56–57. Osband’s substitute counsel represented 21 to the court that other experts had examined him but had not concluded he was incompetent, and 22 counsel believed his symptoms were actually attributable to his poor relationship with Loehr. See 23 id. at 57. These representations led the trial court to move forward with the substitution of 24 counsel, and after

the substitution, Dr. Mehtani supplemented his opinion in response to the trial court's request, finding Osband was competent to proceed.

See *id.* at 58; Respondent's Br. at 26 125, 132–33. A fair-minded jurist could conclude, based on this record, that petitioner was competent to stand trial. 1 Third, with respect to claim IX, the court adopts the findings and recommendations in full. 2 As the Magistrate Judge explains, the state court could reasonably have concluded Osband was competent to testify for essentially the same reasons he was competent to stand trial.

Nor has Osband cited evidence attributing any particular testimony or decision to any particular deficient action or omission by his counsel, rather than to himself. See F&Rs at 62–70. In addition, as the Magistrate Judge correctly notes, counsel could not ethically have assisted petitioner in an attempt to testify untruthfully or misleadingly at trial, and in any event, petitioner had a right to testify in his defense, even if contrary to the best advice of his counsel.

See *id.* at 64–65. 9 Fourth, with respect to subclaim C of claim XX, the court adopts the Magistrate Judge's findings and recommendations in full. A fair-minded jurist could not reasonably have found Osband fell short of the prima facie showing required of him. See F&Rs at 70–93. “[A] mountain of extremely compelling mitigating evidence was... available and could have been presented on [petitioner's] behalf under clearly established federal law,” and this evidence “may have induced at least one juror to conclude [petitioner] did not deserve death.” *Id.* at 90–91.

15 Petitioner's allegations before the state court were “materially indistinguishable from cases where the [United States] Supreme Court has held the petitioner showed penalty phase prejudice from trial counsel's deficient mitigation investigation.” *Id.* at 91 (citing *Rompilla v. Beard*, 545 U.S. 374, 392–93 (2005); *Porter v. McCollum*, 558 U.S. 30, 41 (2009); *Wiggins v. Smith*, 539 U.S. 510, 537 (2003); *Williams v. Taylor*, 529 U.S. 362, 398 (2000)).

The court agrees with the Magistrate Judge that petitioner has shown the state court's decision was in this respect “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). 23 The Magistrate Judge treated the other subparts of claim XX as abandoned because Osband 24 did not make arguments about those subparts.

F&Rs at 70 n.17. Osband objects, citing the overview of claim XX. See Pet. Obj. at 72–74 (citing Pet. Br. at 208–10). The arguments he cites do reference some issues encompassed by the other subclaims within claim XX, but after review the court agrees with the Magistrate Judge that petitioner has not “cited authority tending to show that those [other] subclaims were adjudicated in a manner undeserving of deference under 28 U.S.C. section 2254(d).” F&Rs at 70 n.17.

The court therefore adopts in part the Findings and 2 Recommendations with respect to the other subclaims in claim XX: the court finds petitioner did 3 not abandon or waive those subclaims, but neither has he shown the state court's decision is 4 contrary to or an unreasonable application of clearly established law under 28 U.S.C. § 2254(d). 5 Finally, the court has considered Osband's objection that the Magistrate Judge incorrectly 6 viewed his claims and his counsel's alleged errors "in isolation," effectively ignoring their 7 "synergistic effect." E.g., Pet.

Obj. at 18. Osband has not shown the various instances of 8 allegedly ineffective assistance and other errors compounded with one another, such that no fair- 9 minded jurist could rationally deny relief under the relevant standard, with the exception of claim 10 XX, subclaim C, as explained above. 11 The court finds petitioner is entitled to a certificate of appealability with respect to claims 12 I, V, IX and subclaims A, B, D, E, F and G of claim XX under 28 U.S.C. § 2253(c)(2).

13 Reasonable jurists could find this court's conclusions and the Findings and Recommendations are 14 debatable or wrong. See *Slack v. McDaniel*, 529 U.S. 473 (2000) (setting forth relevant 15 standard).² 16 In sum, for the reasons above: 17 (1) The Findings and Recommendations are adopted in part as specified in this order. 18 (2) The state court's denial of relief is not entitled to deference under 28 U.S.C. 19 § 2243(d) to the extent it was based on subclaim (C) of claim XX in the operative 20 amended petition for a writ of habeas corpus.

21 (3) Claims I, V, IX and subclaims A, B, D, E, F and G of claim XX are dismissed. 2 This court also is not persuaded by petitioner's arguments about the effects of the Supreme Court's decision in *Loper Bright Enterprises v. Raimondo* and declines to issue a certificate of appealability related to arguments based on that case. See Pet. Obj. at 4–17 (discussing 603 U.S. 369 (2024)). "If a precedent of [the Supreme Court] has direct application in a case... a lower court should follow the case which directly controls, leaving to [the Supreme] Court the prerogative of overruling its own decisions.

This is true even if the lower court thinks the precedent is in tension with some other line of decisions." *Mallory v. Norfolk S. Ry. Co.*, 600 U.S. 122, 136 (2023) (citations and quotation marks omitted)). 1 (4) Petitioner is entitled to a certificate of appealability on the claims listed in 2 paragraph 3 above. 3 (5) The parties are directed to meet and confer and file, within thirty days, a joint 4 status report proposing a schedule for the further resolution of this matter.

5 (6) The matter is referred back to the assigned Magistrate Judge for further 6 proceedings. 7 IT IS SO ORDERED. 8 DATED: December 29, 2025.