

UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF
OHIO, EASTERN DIVISION

Christopher Brown v. Jerry Spatny

Brown · No. 3:23-CV-00389 · Decided March 6, 2026

SUMMARY

The United States District Court for the Northern District of Ohio denied Christopher Brown’s petition for a writ of habeas corpus under 28 U.S.C. § 2254. The court overruled Brown’s objection to the magistrate judge’s report and recommendation, rejecting claims concerning juror misconduct, ineffective assistance of counsel, and insufficient evidence, while dismissing one claim as procedurally defaulted. The court also declined to issue a certificate of appealability.

CASE DETAILS

COURT	United States District Court for the Northern District of Ohio, Eastern Division
WRITING FOR THE COURT	Benita Y. Pearson
JURISDICTION	United States District Court for the Northern District of Ohio, Eastern Division
DECIDED	March 6, 2026
DOCKET	3:23-CV-00389
DISPOSITION	denied
PROCEDURAL POSTURE	Petition for a writ of habeas corpus under 28 U.S.C. § 2254; district-court review of a Magistrate Judge's Report and Recommendation and the petitioner's objection.
STANDARD OF REVIEW	The court reviews specifically objected portions of a Magistrate Judge's Report and Recommendation de novo. For federal habeas claims, AEDPA deference applies when the state court adjudicated the federal claim on the merits; because the state appellate court resolved the juror-misconduct claim on invited-error grounds without reaching the merits, the district court reviewed that claim de novo. Actual prejudice, rather than juror misconduct alone, was required to establish a due-process violation.
PRECEDENTIAL VALUE	Unknown; memorandum opinion and order from a federal district court.

PARTIES

Christopher Brown v. Jerry Spatny

TOPICS

federal habeas corpus

due process

criminal procedure

ineffective assistance

appellate procedure

PRACTICE AREAS

federal habeas corpus

criminal procedure

constitutional law

post-conviction relief

QUESTIONS PRESENTED

1. Whether the state court's reliance on invited error required de novo federal habeas review of Brown's claim that the trial court violated due process by failing to declare a mistrial after juror misconduct.
2. Whether unauthorized juror research during deliberations constituted structural error, prejudice per se, or an otherwise prejudicial due-process violation requiring habeas relief when the trial court held a Remmer hearing and Brown voluntarily chose to proceed without a mistrial.
3. Whether Brown was entitled to habeas relief on his claims concerning counsel's failure to request a limiting instruction, insufficient evidence, ineffective assistance of appellate counsel, and failure to investigate evidence concerning the nasal inhaler.
4. Whether Brown was entitled to a certificate of appealability.

HOLDINGS

1. When the state appellate court resolves a federal constitutional claim on invited-error grounds without reaching its merits, AEDPA merits deference does not apply and the federal habeas court reviews the claim de novo.
2. Unauthorized juror research does not, by itself, establish a due-process violation or require a mistrial; the petitioner must show actual prejudice. Brown failed to make that showing.
3. Brown could not establish structural error or prejudice per se based on his voluntary decision to reject a mistrial and proceed to verdict on the remaining counts.
4. Grounds II, III, and IV were denied as meritless, and Ground V was dismissed as procedurally defaulted.

KEY QUOTATIONS

"Yet Fourteenth Amendment Due Process does not mandate a mistrial every time a juror encounters extraneous information."

"Having walked his chosen path, Petitioner cannot claim prejudice per se as a product of personal preference."

"This is not due process violated—it is due process regretted."

FACTUAL BACKGROUND

Christopher Brown was convicted of repeatedly raping his minor stepdaughter between 2013 and 2016. During jury deliberations, one juror conducted unauthorized online research concerning the word "access" in an online dictionary and the Ohio Revised Code. The trial court held a Remmer hearing, offered Brown the option of seeking a mistrial, and allowed him time to consult counsel; despite counsel's advice to seek a mistrial, Brown chose to dismiss only the affected count and proceed with deliberations on the remaining counts. The jury then convicted him on four rape counts.

PROCEDURAL HISTORY

Brown was convicted in the Lucas County Court of Common Pleas of four counts of rape and sentenced to consecutive terms totaling forty years to life. The Ohio appellate courts denied relief on his direct appeal, delayed appeal, application to reopen the appeal, and post-conviction proceedings. After a Magistrate Judge recommended denying Grounds I through IV as meritless and dismissing Ground V as procedurally defaulted, Brown filed an objection focused on the juror-misconduct claim. The district court overruled the objection, adopted the Report and Recommendation, denied the habeas petition, and declined to issue a certificate of appealability.

DISPOSITION

denied

CASES CITED

- Ex parte Bollman and Ex parte Swartwout, 8 U.S. 75 (1807)
- Boumediene v. Bush, 553 U.S. 723, 725 (2008)
- Brown v. Allen, 344 U.S. 443, 457 (1953)
- Powell v. Collins, 332 F.3d 376, 388 (6th Cir. 2003)
- Harris v. Stovall, 212 F.3d 940, 942 (6th Cir. 2000)
- Pulley v. Harris, 465 U.S. 37, 41 (1984)
- Smith v. Sowders, 848 F.2d 735, 738 (6th Cir. 1988)
- Estelle v. McGuire, 502 U.S. 62, 63 (1991)
- Cristini v. McKee, 526 F.3d 888, 897 (6th Cir. 2008)
- Cooper v. Chapman, 970 F.3d 720, 729-30 (6th Cir. 2020)
- Remmer v. United States, 347 U.S. 227, 229-30 (1954)
- Smith v. Phillips, 455 U.S. 209, 217 (1982)
- In re Sittenfeld, 49 F.4th 1061, 1066-67 (6th Cir. 2022)
- Ewing v. Horton, 914 F.3d 1027, 1030-31 (6th Cir. 2019)
- Nevers v. Killinger, 169 F.3d 352, 373 (6th Cir. 1999)
- Thomas v. Arn, 474 U.S. 140, 147 (1985)
- Howard v. Secretary of Health & Human Services, 932 F.2d 505, 509 (6th Cir. 1991)
- Bulls v. Potter, No. 5:16-CV-02095, 2020 WL 870931, at *1 (N.D. Ohio Feb. 21, 2020)

- Spring v. Harris, No. 4:18-CV-2920, 2022 WL 854795, at *4 (N.D. Ohio Mar. 23, 2022)
- Aldrich v. Bock, 327 F. Supp. 2d 743, 747 (N.D. Ohio 2004)
- Thomas v. May, No. 5:20-CV-2628, 2025 WL 957237, at *4 (N.D. Ohio Mar. 31, 2025)
- Peretz v. United States, 501 U.S. 923, 939 (1991)

OPINION

PEARSON, J. UNITED STATES DISTRICT COURT NORTHERN DISTRICT OF OHIO EASTERN DIVISION CHRISTOPHER BROWN,) CASE NO. 3:23-CV-00389) Petitioner,)) JUDGE BENITA Y. PEARSON v.)) JERRY SPATNY,) MEMORANDUM OF) OPINION AND ORDER Respondent.) [Resolving ECF Nos. 1, 24, 28] I. INTRODUCTION Christopher Brown is serving a “forty-to-life” sentence in state prison for repeatedly raping his minor stepdaughter from 2013 to 2016.

He enters a Petition for a Writ of Habeas Corpus (ECF No. 1) under 28 U.S.C. § 2254 challenging his confinement and alleging—inter alia—juror misconduct, ineffective assistance of counsel, and insufficient evidence. Respondent is Petitioner’s gaoler, Jerry Spatny.¹ After reviewing the assigned Magistrate Judge’s Report and Recommendation (“R&R”) (ECF No. 24) against Petitioner’s sole Objection (ECF No. 28) thereto, the Court overrules the Objection, adopts the R&R, and denies the Petition.

The reasons follow. 1 Substituted as Warden. See Fed. R. Civ. P. 25(d). II. BACKGROUND A. Facts Mother S.B. and daughter A.K. moved from Tennessee to Toledo in 2013.² See ECF No. 24 at PageID #: 1224. At first, they lived with S.B.’s sister. See ECF No. 24 at PageID #: 1225. Later, they moved in with S.B.’s father, T.M., in a house on Parkwood Avenue. Petitioner— A.K.’s stepfather—lived there, too.

See ECF No. 24 at PageID #: 1224. He began sexually abusing A.K. in her grandfather’s recreation room by inserting a nasal inhaler into her vagina. See ECF No. 24 at PageID #: 1224. Outside the home, A.K. found sanctuary caring for animals at a local barn. See ECF No. 24 at PageID #: 1224. She claims Petitioner sexually abused her in a camper adjacent to that barn, including further vaginal penetration.

See ECF No. 24 at PageID #: 1224. A.K. felt “stuck” and could not refuse Petitioner’s advances for fear of upsetting him. See ECF No. 24 at PageID #: 1224. The abuses began in October 2013 when A.K. was twelve years old. See ECF No. 24 at PageID #: 1223–24.

In 2014, A.K., S.B., and Petitioner moved from Parkwood Avenue to an apartment on Chase Street. See ECF No. 24 at PageID #: 1225. At the time, both S.B. and Petitioner abused oxycodone. See ECF No. 24 at PageID #: 1225. Petitioner continued to sexually assault A.K. at the new apartment by inserting vibrators into her vagina, raping her vaginally, and masturbating against her labia.

See ECF No. 24 at PageID #: 1224. S.B. began to suspect Petitioner was 2 Alongside S.B.'s other children, unimplicated herein. See ECF No. 24 at PageID #: 1225. sexually abusing her daughter, testifying that he "was always [locking] the door with [A.K.] in it, and every time I tr[ied] to come home and open the bedroom door, [it] was always locked." See ECF No. 24 at PageID #: 1225.

S.B. described one incident when—on entering a room in which Petitioner and A.K. were alone—she "opened the [bedroom] door and it looked like [A.K.'s] head c[a]me flying out of the covers really fast. I could kind of tell that [Petitioner] was a little nervous and I just kind of like, I didn't know what to say." See ECF No. 24 at PageID #: 1225. These abuses occurred between January 2016 and December 2016.

Petitioner was fifteen. Two years later, A.K. revealed the assaults to her mother in piecemeal fashion. See ECF No. 24 at PageID #: 1225. In response, S.B. set a meeting with Detective Diane Trevino of the Toledo Police Department. See ECF No. 24 at PageID #: 1225. At that meeting, A.K. formally reported Petitioner's sexual misconduct. Detective Trevino immediately launched an investigation and referred Petitioner to the county prosecutor for criminal charges.

See ECF No. 24 at PageID #: 1225. B. Proceedings Petitioner was indicted in March 2019 in the Lucas County (Ohio) Court of Common Pleas on seven counts: four for rape involving a victim younger than thirteen (under Ohio Rev. Code § 2907.02(A)(1)(b) and (B)); two for rape (under Ohio Rev. Code § 2907.02(A)(2) and (B)); and one for corrupting another with drugs (under Ohio Rev. Code § 2925.02(A)(4)(a)).³ See Ohio v. Brown, No. CR-0201901504 (Lucas County Ct.

Com. Pl. 2020); ECF No. 24 at PageID #: 1223. He pled not guilty to all charges, and a jury trial commenced in February 2020. See ECF No. 24 at PageID #: 1224. The State presented three witnesses: A.K., a child abuse expert,⁴ and S.B. See ECF No. 24 at PageID #: 1224–25. Petitioner's Trial Counsel countered with four: Detective Trevino, T.M., T.M.'s husband, and Petitioner himself.

See ECF No. 24 at PageID #: 1226. On the witness stand, Petitioner described his link to A.K. as a "normal father-daughter relationship[.]" See ECF No. 24 at PageID #: 1227. He denied any sexual contact occurred between them. See ECF No. 24 at PageID #: 1227. He claimed A.K. fabricated the allegations out of anger over Petitioner's impending divorce with S.B. and for ceasing payment of A.K.'s cell phone bill.

See ECF No. 24 at PageID #: 1227. While testifying, Petitioner, inadvertently disclosed that he was incarcerated during trial. That revelation prompted a sidebar, whereupon both the State and Trial Counsel agreed that Petitioner's comment constituted an invited error.

The trial court offered to provide a limiting instruction to the jury, but Trial Counsel elected instead to "leave it alone." See ECF No. 24 at PageID #: 1227. Adding to the dynamics of trial,

one of the jurors impermissibly conducted online research on their cell phone during verdict deliberations. See ECF No. 24 at PageID #: 1227.

In response, Trial Counsel advised Petitioner to pursue a mistrial. He declined, and Trial Counsel subsequently informed the trial court on the record that: Against my counsel and advice, I advised [Petitioner] that a mistrial is warranted simply because of the taintedness of more than one Juror as a result of the collective request for the definition as to “access.” But, my client, Your Honor, does not want a mistrial.

So, against my counsel and advice, my client wants to proceed with this trial, with the continued deliberations with the current Jury panel of twelve. He does though make a request that based upon the obvious violation of this Court’s instruction as to having electronic media, that Count 7 is tainted.

We would ask the court to dismiss that count 4 Dr. Randall Schlievert. due to what the Jury has represented to the Court. But my client is not asking for a mistrial as to Counts 1 through 6. See ECF No. 24 at PageID #: 1228 (emphasis added).

The State dismissed the drug corruption charge implicated by the improper juror research, and deliberation continued on the remaining counts. On February 13, 2020, Petitioner was convicted on four counts of rape: two at the Parkwood Avenue home; two at the Chase Street apartment. See ECF No. 24 at PageID #: 1228.

The jury did not reach a verdict on the alleged abuses in the barn camper. See ECF No. 24 at PageID #: 1228. At sentencing, the trial court imposed consecutive terms totaling forty years to life incarceration. See ECF No. 24 at PageID #: 1228–29. Petitioner entered detention at the Grafton Correctional Institution (“GCI”) on February 27, 2020. See Ohio Dep’t of Rehabilitation & Correction, Offender Details: Christopher Brown (A769914), Ohio Offender Search (last visited Mar.

6, 2026). He remains there today. See *id.* * * * Following his conviction, Petitioner pursued parallel appellate tracks. First, he appealed to Ohio’s Sixth District Court of Appeals on four assignments of error: juror misconduct, ineffective assistance of counsel, insufficient evidence, and verdict against the manifest weight of the evidence. See ECF No. 24 at PageID #: 1229–30.

The appellate court denied relief and affirmed the convictions. See *State v. Brown*, No. L-20-1052, 2021 WL 1943266 (Ohio Ct. App. May 14, 2021). Petitioner then sought permission from the Supreme Court of Ohio to submit a delayed appeal on three grounds: the mistrial declination, Trial Counsel's failure to request a limiting jury instruction, and insufficient evidence.

See ECF No. 24 at PageID #: 1229. The court gave Petitioner leave to file but declined jurisdiction. See *State v. Brown*, 177 N.E.3d 987 (Ohio 2021). Second, while his delayed appeal

was pending, Petitioner applied to the Sixth District to reopen his direct appeal under Ohio R. App. P. 26(B). See ECF No. 24 at PageID #: 1230. He argued that Appellate Counsel was ineffective for failing to raise Trial Counsel errors including failure to impeach, failure to object, and deficient trial strategy.

The appellate court denied the application. No appeal followed. * * * Next, Petitioner filed a delayed petition for post-conviction relief in the Lucas County Court of Common Pleas under Ohio Rev. Code § 2953.21. See ECF No. 24 at PageID #: 1231. Therein, he argued that Trial Counsel was ineffective for not discovering the allegedly exculpatory evidence that he was not prescribed a nasal inhaler until 2017, despite raping his stepdaughter with an inhaler four years earlier.

See ECF No. 24 at PageID #: 1231. The trial court dismissed Petitioner's claim as untimely, concluding that the filing delay was inexcusable because Petitioner was aware of his own medical history before, during, and after trial. See ECF No. 24 at PageID #: 1231. Petitioner appealed that denial to the Sixth District on four assignments of error: abuse of discretion, improperly denied evidentiary hearing, premature ruling on the merits, and improper application of res judicata.

See ECF No. 24 at PageID #: 1231. The appellate court again denied relief. See *State v. Brown*, No. L-23-1119, 2024 WL 513727 (Ohio Ct. App. Feb. 9, 2024). Petitioner appealed to the Supreme Court of Ohio, which declined jurisdiction. See *State v. Brown*, 233 N.E.3d 648 (Ohio 2024). * * * Petitioner filed the instant application for writ of habeas corpus under 28 U.S.C. § 2254 on February 27, 2023.

See ECF No. 1. He justifies his request for post-conviction relief on five grounds: (Ground I) — The trial court should have declared a mistrial after jurors researched definitions online during deliberation. (Ground II) — Trial counsel should have asked the trial court judge to instruct the jury to disregard Petitioner's accidental incarceration comment. (Ground III) — The evidence at trial was insufficient to support a conviction beyond a reasonable doubt.

(Ground IV) — Appellate Counsel failed to raise Trial Counsel errors on direct appeal. (Ground V) — Trial Counsel failed to investigate and present evidence that Petitioner did not own a nasal inhaler until 2017. See ECF No. 1 at PageID ##: 1–19.

The Petition was assigned to Magistrate Judge Darrell A. Clay, who held the case in abeyance pending exhaustion of state remedies. See ECF No. 10. He resurrected the case on May 14, 2024, and the State entered a Return of Writ shortly thereafter. See ECF Nos. 13, 14. Petitioner then moved for and was denied an expanded record and evidentiary hearing. See ECF Nos. 18, 21, 23.

He opposed the State's Return of Writ in a timely Traverse. See ECF No. 20. Magistrate Judge Clay issued a R&R on March 5, 2025. See ECF No. 24. In it, he advises that Grounds I–IV be denied as meritless and Ground V be dismissed as procedurally defaulted. He ultimately

recommends the Petition be denied without a certificate of appealability. See ECF No. 24 at PageID ##: 1222–23.

Petitioner timely filed a single objection.⁵ See ECF No. 28. ⁵ Timely amended from an initial Objection on March 27, 2025. See ECF No. 27. III. LAW A. Habeas A writ of habeas corpus ad subjiciendum is a civil ex parte proceeding whereby a district court confirms the legitimacy of a prisoner's custody. See U.S. Const. art. I, § 9, cl. 2; *Ex parte Bollman* and *Ex parte Swartwout*, 8 U.S. 75 (1807).

When granted, the writ orders a jailer to bring the incarcerated before a judge to weigh the imprisonment's propriety. See *Boumediene v. Bush*, 553 U.S. 723, 725 (2008). If the detention violates the United States Constitution, federal law, or federal treaty, the incarcerated is entitled to relief. See 28 U.S.C. §§ 2241(c)(3), 2254(a).

The Antiterrorism and Effective Death Penalty Act of 1996 (“AEDPA”) provides the statutory framework for habeas petitions in federal court. See 28 U.S.C. §§ 2241–2256. A petition under 28 U.S.C. § 2254 specifically challenges the fairness of state court proceedings and state deprivations of liberty. See *Brown v. Allen*, 344 U.S. 443, 457 (1953). It is the primary mechanism of federal relief for those incarcerated in state prisons.

See *Powell v. Collins*, 332 F.3d 376, 388 (6th Cir. 2003). Under 28 U.S.C. § 2254(d), a habeas writ may not be granted unless the state court proceedings: (1) resulted in a decision that was contrary to, or involved an unreasonable application of, clearly established federal law as determined by the Supreme Court of the United States; or (2) resulted in a decision that was based on an unreasonable determination of the facts in light of the evidence presented.

See *Harris v. Stovall*, 212 F.3d 940, 942 (6th Cir. 2000). A district court cannot issue a writ solely for “a perceived error of state law.” *Pulley v. Harris*, 465 U.S. 37, 41 (1984); *Smith v. Sowders*, 848 F.2d 735, 738 (6th Cir. 1988). Rather, it must give deference to the state court's legal and factual determinations.⁶ See *Estelle v. McGuire*, 502 U.S. 62, 63 (1991); *Cristini v. McKee*, 526 F.3d 888, 897 (6th Cir.

2008). B. Referral A district court may assign a habeas petition under 28 U.S.C. § 2254 to a Magistrate Judge for factual findings and legal recommendations via R&R. See 28 U.S.C. 636(b)(1)(B). On receipt of the R&R, litigants have two weeks to enter any objections. See Fed. R. Civ. P. 73(b)(2); *id.* A district court reviews *de novo* only those portions of the R&R specifically objected to.⁷ See 28 U.S.C. § 636(b)(1)(C); *id.* Failure to timely object “constitute[s] a waiver of subsequent review, absent a showing of good cause for such failure.” Local Rule 72.3(b)v; see Fed.

R. Civ. P. 72(b). Objections must be clear and specific, directing the court's attention to specific contentions with the R&R.⁸ See *Thomas v. Arn*, 474 U.S. 140, 147 (1985); *Howard v. Sec'y of*

Health & Hum.Servs., 932 F.2d 505, 509 (6th Cir. 1991). 6 “A violation of state law is not cognizable in federal habeas unless such error amounts to a fundamental miscarriage of justice or a violation of the right to due process in violation of the United States Constitution.” Cristini, 526 F.3d at 897.

7 See, e.g., *Bulls v. Potter*, No. 5:16-CV-02095, 2020 WL 870931, at *1 (N.D. Ohio Feb. 21, 2020) (citing Fed. R. Civ. P. 72(b)(2)) (noting objections “must be specific in order to trigger de novo review”) (cleaned up); *Spring v. Harris*, No. 4:18-CV-2920, 2022 WL 854795, at *4 (N.D. Ohio Mar. 23, 2022) (quoting *Aldrich v. Bock*, 327 F. Supp. 2d 743, 747 (N.D.

Ohio 2022)) (“An objection that does nothing more than state a disagreement with a [Magistrate Judge]’s suggested resolution, or simply summarizes what has been presented before, is not an objection as that term is used in this context”) (cleaned up). 8 See *Potter*, 2020 WL at *2 (“A party disappointed with the [Magistrate Judge]’s recommendation has a duty to pinpoint those portions of the [R&R] that the district court must specially consider.”) (cleaned up).

As a result, a vague objection to the entire report that “attempts to support [a] general objection with an exact recitation of arguments that were previously raised before the [Magistrate Judge]” does not meet the specificity requirement that triggers de novo review. *Id.* (cleaned up).

On review, a district court’s role “is not to conduct a free-wheeling examination of the entire [R&R], but only to address any specific objections that a party has advanced to some identified portion of it.” *Thomas v. May*, No. 5:20-CV-2628, 2025 WL 957237, at *4 (N.D. Ohio Mar. 31, 2025). A district court may accept, reject, or modify the R&R, receive additional evidence, or return it to the Magistrate Judge with clarifying guidance.

See 28 U.S.C. § 636(b)(1)(C). Absent specific objections, a district court may adopt the R&R without in-depth review. See *Peretz v. United States*, 501 U.S. 923, 939 (1991). IV. DISCUSSION
A. Unobjected Petitioner offers no objections to the Magistrate Judge’s recommendations on Grounds II, III, IV, and V. The Court therefore incorporates R&R’s analysis and adopts its conclusions herein.

Grounds II, III, and IV are denied as meritless, and Ground V is dismissed as procedurally defaulted. See ECF No. 24. B. Objected Petitioner’s Objection focus solely on Ground I. See ECF No. 28 at PageID ##: 1279–83 Ground I contends that the trial court violated his due process rights by failing to declare a mistrial after jurors admitted to conducting independent research during deliberations.

See ECF No. 1 at PageID #: 5. In his Traverse, Petitioner reframes this as a claim for ineffective assistance asserting that Trial Counsel failed to adequately advise him to accept the offered mistrial. See ECF No. 20 at PageID ##: 1162–63. He argues that all juror misconduct is

presumptively prejudicial, and thus the trial court was required to order a mistrial under the circumstances.

He further contends that the prevailing party bears the burden of proving the absence of prejudice, which he says the State failed to carry. The R&R disagrees. It recommends denying Ground I because—although *de novo* review is appropriate when a state court disposes of a claim on invited-error grounds without reaching the merits—Petitioner cannot demonstrate actual prejudice because he was: (1) afforded a full Remmer hearing; (2) given adequate time to confer with Trial Counsel; and (3) voluntarily chose to proceed to verdict on the remaining counts against Trial Counsel’s counsel.

Put plainly: the R&R says that Petitioner cannot claim a constitutional injury from the consequences of his voluntary choices at trial. On Objection, Petitioner argues the Court “should determine that Petitioner has shown structural error or prejudice *per se* on Ground [I] and grant the writ[,] or at least issue a certificate of appealability based on whether [P]etitioner has shown a debatable claim of the denial of his constitutional rights[.]” ECF No. 28 at PageID #: 1279.

More specifically, he believes the Magistrate Judge sidestepped his core argument—that the decision not to pursue a mistrial belonged exclusively to Trial Counsel, and was therefore a matter of litigative mismanagement. See ECF No. 28 at PageID #: 1281.

In his view, the mistrial forbearance fell outside Petitioner’s autonomy because moving for a mistrial does not waive the right to a jury trial itself, thereby constituting structural error or prejudice *per se*. See ECF No. 28 at PageID #: 1281–82. * * * A state trial court decision is entitled to AEDPA deference only when it rules on the merits of a federal constitutional claim.

See *Cooper v. Chapman*, 970 F.3d 720, 729–30 (6th Cir. 2020) (“Because the state appellate court made no determination on the merits of [defendant]’s constitutional challenge... this court applies *de novo* review to the harmless error question presented on appeal[.]”) The Sixth District’s reliance on Petitioner’s invited error in its analysis means, definitionally, that it did not resolve Ground I on the merits: Ordinarily, we review the trial court’s disposition of a defendant’s allegation of juror misconduct for an abuse of discretion.

However, in this case, we need not determine whether the trial court abused its discretion in failing to declare a mistrial, because we find that any error associated with such inaction was invited by appellant. ECF No. 14–1 at PageID #: 220.

Accordingly, the Sixth District’s ruling vis-à-vis Ground I shall be reviewed *de novo*. *Cooper*, 970 F.3d at 730. When reweighed anew and taken against Petitioner’s Objection, Ground I remains meritless. The Sixth Amendment guarantees criminal trial by an impartial jury. See U.S. Const. amend VI. Trial courts must investigate unauthorized conduct in jury deliberations.

See *Remmer v. United States*, 347 U.S. 227, 229–30 (1954). Yet Fourteenth Amendment Due Process does not mandate a mistrial every time a juror encounters extraneous information. See *Smith v. Phillips*, 455 U.S. 209, 217 (1982). “Were that the rule, few trials would be constitutionally acceptable.” *Id.* Rather, Petitioner had to prove actual prejudice at the trial court’s *Remmer* hearing. see *In re Sittenfeld*, 49 F.4th 1061, 1066–67 (6th Cir.

2022), as juror misconduct is, by itself, insufficient. See *Ewing v. Horton*, 914 F.3d 1027, 1030 (6th Cir. 2019). “When a petitioner shows that extraneous information may have tainted the jury, due process requires the opportunity to show that the information did taint the jury to his detriment.” ECF No. 24 at PageID #: 1248 (citing *Ewing*, 914 F.3d at 1031).

Petitioner cannot and did not make such a showing. During deliberations, jurors told the trial court that one of their number researched the word “access” in an online dictionary and the Ohio Revised Code. See ECF No. 15–1 at PageID #: 993–95. No other research occurred. See ECF No. 15–1 at PageID #: 995–97. At the State’s insistence, the trial court held a *Remmer* hearing, gave Petitioner time to confer with Trial Counsel, and offered him a choice of remedies: So Mr. Brown, this could be approached any number of ways.

It would -- this alone would serve as a foundation for you to ask for a mistrial, which would, if granted, mean the Jury is discharged and your case would start over with a new trial. An alternative to that is to bring the Jury out, find out exactly what this, in their words, unauthorized research dealt with, and it may or may not be viewed as impactful and you may make the considered decision that you're comfortable going forward with this Jury deliberating.

ECF No. 15-1 at PageID #: 989:19–90:5. Trial Counsel urged Petitioner to seek a mistrial, but he refused. See ECF No. 15–1 at PageID #: 1000:25–01:16. Instead, he asked the trial court to dismiss only the research-corrupted count and proceed to deliberations on the remaining charges. See ECF No. 15–1 at PageID #: 1002:2–03:2.

Having walked his chosen path, Petitioner cannot claim prejudice per se as a product of personal preference. Furthermore, there is “no indication that the jury’s research set the tone for deliberations on the other counts or was connected to an adverse verdict on those counts.” ECF No. 24 at PageID #: 1249 (citing *Nevers v. Killinger*, 169 F.3d 352, 373 (6th Cir.

1999), abrogated on other grounds by *Harris v. Stovall*, 212 F.3d 940 (6th Cir. 2000). Petitioner claims he faced an impossible choice: defy Trial Counsel’s advice, or proceed toward an unreviewable adverse verdict. See ECF No. 20 at PageID #: 1162–63. His logic is faulty; the meaningful choice was not between defiance and deliberation, but between (a) accepting a mistrial, and facing the stress uncertainty of new proceedings, or (b) dismiss the corrupted charge dismissed and proceed to verdict.

For better or worse, he chose the latter. This is not due process violated—it is due process regretted. The Court finds no violation herein warranting habeas relief. V. CONCLUSION For these reasons, Christopher Brown’s Petition for a Writ of Habeas Corpus (ECF No. 1) under 28 U.S.C. § 2254 is denied.

The Magistrate Judge’s Report and Recommendation (ECF No. 24) is adopted. Grounds I, II, III, and IV are denied as meritless. Ground V is dismissed as procedurally defaulted. Petitioner’s Objection (ECF No. 28) is overruled.

The Court states that an appeal of this ruling cannot be taken in good faith. It therefore declines to issue a certificate of appealability. IT IS SO ORDERED. March 6, 2026 /s/ Benita Y. Pearson Date Benita Y. Pearson United States District Judge