

UNITED STATES DISTRICT COURT FOR THE DISTRICT OF NEW JERSEY

Victor Cody v. Cindy Sweeney

No. 20-20387 (BRM), United States District Court for the District of New Jersey (December 17, 2025)

SUMMARY

The United States District Court for the District of New Jersey denies Victor Cody’s amended petition for a writ of habeas corpus under 28 U.S.C. § 2254 and declines to issue a certificate of appealability. The court rejects Cody’s ineffective-assistance claims concerning counsel’s failure to seek suppression of evidence obtained after a vehicle stop, concluding that the detention, identification procedure, seizure of cash, and observation of clothing were legally supportable and that counsel was not ineffective for declining to file a meritless motion.

CASE DETAILS

COURT	United States District Court for the District of New Jersey
WRITING FOR THE COURT	Brian R. Martinotti
JURISDICTION	United States District Court for the District of New Jersey
DECIDED	December 17, 2025
DOCKET	20-20387 (BRM)
DISPOSITION	denied
PROCEDURAL POSTURE	Petitioner sought federal habeas relief under 28 U.S.C. § 2254 from New Jersey convictions for conspiracy to commit robbery, robbery, unlawful possession of a weapon, and possession of a weapon for an unlawful purpose. The district court denied the amended petition and denied a certificate of appealability.
STANDARD OF REVIEW	Under AEDPA, relief is unavailable for claims adjudicated on the merits unless the state-court decision was contrary to, or an unreasonable application of, clearly established Supreme Court precedent, or was based on an unreasonable determination of the facts. State factual findings are presumed correct subject to rebuttal by clear and convincing evidence. Ineffective-assistance claims are reviewed under the doubly deferential Strickland and § 2254(d) standards; sufficiency claims are reviewed under Jackson v. Virginia.
PRECEDENTIAL VALUE	unpublished
PARTIES	Victor Cody v. Cindy Sweeney

TOPICS

federal habeas corpus

ineffective assistance

fourth amendment

search and seizure

evidence

PRACTICE AREAS

federal habeas corpus

criminal procedure

post-conviction relief

constitutional law

evidence

QUESTIONS PRESENTED

1. Whether trial counsel was ineffective for failing to move to suppress evidence obtained during and after the vehicle stop.
2. Whether trial counsel was ineffective during plea negotiations by allegedly misadvising Cody about the admissibility of surveillance and clothing evidence.
3. Whether trial and appellate counsel were ineffective for failing to challenge the trial court's supplemental Allen charge and related conduct during jury deliberations.
4. Whether admission of the show-up identification violated due process or otherwise warranted habeas relief.
5. Whether admission of 911 and fire-dispatch recordings violated the Confrontation Clause.
6. Whether the evidence was constitutionally sufficient to support the convictions.
7. Whether the trial court's eyewitness-identification instructions violated due process.
8. Whether testimony concerning Cody's failure to show his hands constituted improperly admitted other-bad-acts evidence that rendered the trial fundamentally unfair.

HOLDINGS

1. The state courts reasonably determined that counsel was not ineffective for failing to file a suppression motion because the vehicle stop and detention were supported by reasonable suspicion, the fifteen-minute show-up did not become an unlawful de facto arrest, the cash was seized after probable cause arose from the identification, and the clothing was observed in plain view.
2. The state courts reasonably rejected Cody's claim that counsel's alleged advice about the admissibility of clothing and surveillance evidence caused him to reject a ten-year plea offer.
3. Cody failed to show ineffective assistance because trial counsel expressly objected to the Allen charge and the related written instructions, while appellate counsel was not ineffective for failing to relitigate claims already raised or procedurally barred.
4. The suggestive show-up identification was sufficiently reliable under clearly established federal law, and its admission did not violate due process.
5. Admission of the recordings did not violate the Confrontation Clause because the admitted statements were nontestimonial statements made during an ongoing emergency.
6. The evidence was constitutionally sufficient because, viewed in the light most favorable to the prosecution, a rational juror could find Cody guilty beyond a reasonable doubt.

7. The identification instructions, considered as a whole, did not deprive Cody of due process or render the trial fundamentally unfair.
8. Admission of testimony that Cody failed to show his hands did not render the trial fundamentally unfair because the testimony was relevant to the officers' conduct, Cody's apprehension, and discovery of the cash, rather than merely evidence of unrelated bad acts.

KEY QUOTATIONS

“The pivotal question is whether the state court’s application of the Strickland standard was unreasonable”
(Ground One analysis)

“Statements are nontestimonial when made in the course of police interrogation under circumstances objectively indicating that the primary purpose of the interrogation is to enable police assistance to meet an ongoing emergency.” (Ground Six analysis)

“Petitioner’s petition for a writ of habeas corpus (ECF No. 10) is DENIED, and Petitioner is DENIED a certificate of appealability.” (Conclusion)

FACTUAL BACKGROUND

On April 20, 2012, Surjit Singh was robbed and assaulted at a Newark service station by two men. An eyewitness described the fleeing suspects, an off-duty firefighter followed two men who matched the description into a Nissan Maxima, and police stopped the vehicle shortly afterward. Cody was found in the back seat with \$1,319 in cash in his waistband, and clothing resembling clothing seen in surveillance footage was visible inside the vehicle. Singh identified Cody and his brother during a show-up approximately fifteen minutes after the robbery.

PROCEDURAL HISTORY

A New Jersey jury convicted Cody of second-degree conspiracy to commit robbery, first-degree robbery, fourth-degree unlawful possession of a weapon, and third-degree possession of a weapon for an unlawful purpose. The trial court imposed a twenty-five-year sentence with an eighty-five-percent parole bar under NERA, an extended-term sentence, and five years of parole supervision. The New Jersey Appellate Division affirmed, the New Jersey Supreme Court denied certification, the state courts denied post-conviction relief, and the New Jersey Supreme Court denied PCR certification. Cody filed a federal habeas petition, later amended it, withdrew an unexhausted claim, and proceeded on the remaining claims.

DISPOSITION

denied

CASES CITED

- Strickland v. Washington, 466 U.S. 668 (1984)
- Lafler v. Cooper, 566 U.S. 156 (2012)
- Terry v. Ohio, 392 U.S. 1 (1968)

- United States v. Sharpe, 470 U.S. 675 (1985)
- Manson v. Brathwaite, 432 U.S. 98 (1977)
- Neil v. Biggers, 409 U.S. 188 (1972)
- Crawford v. Washington, 541 U.S. 36 (2004)
- Davis v. Washington, 547 U.S. 813 (2006)
- Jackson v. Virginia, 443 U.S. 307 (1979)
- Estelle v. McGuire, 502 U.S. 62 (1991)
- United States v. Stabile, 633 F.3d 219 (3d Cir. 2011)
- Kimmelman v. Morrison, 477 U.S. 365 (1986)
- State v. Cody, No. A-5005-13T2, 2016 WL 3369531 (N.J. Super. Ct. App. Div. June 20, 2016)
- State v. Cody, No. A-0754-18T2, 2020 WL 2601974 (N.J. Super. Ct. App. Div. May 22, 2020)
- State v. Henderson, 208 N.J. 208 (2011)
- State v. Delgado, 188 N.J. 48 (2006)
- Allen v. United States, 164 U.S. 492 (1896)
- Eley v. Erickson, 712 F.3d 837 (3d Cir. 2013)
- Renico v. Lett, 559 U.S. 766 (2010)
- Woods v. Donald, 575 U.S. 312 (2015)
- Wong Sun v. United States, 371 U.S. 471 (1963)
- Harris v. United States, 390 U.S. 234 (1968)
- State v. Madison, 109 N.J. 223 (1988)
- State v. Herrera, 187 N.J. 493 (2006)
- State v. Savage, 172 N.J. 374 (2002)
- State v. Cromedy, 158 N.J. 112 (1999)