

UNITED STATES DISTRICT COURT FOR THE DISTRICT OF NEVADA

Eric Deon Robinson v. Gabriela Najera, et al.

Robinson · No. 2:21-cv-01989-RFB-DJA · Decided December 22, 2025

OPINION

1 2 3 4 UNITED STATES DISTRICT COURT 5 DISTRICT OF NEVADA 6 * * * 7 ERIC DEON ROBINSON, 8 Petitioner, Case No. 2:21-cv-01989-RFB-DJA 9 v. ORDER 10 GABRIELA NAJERA,1 et al., 11 Respondents. 12 13 I. INTRODUCTION 14 Eric Deon Robinson is a Nevada prisoner who was convicted of conspiracy to commit 15 kidnapping, first-degree kidnapping with use of a deadly weapon, coercion with use of a deadly 16 weapon, two counts of first-degree kidnapping with use of a deadly weapon resulting in substantial 17 bodily harm, attempted murder with use of a deadly weapon, and first-degree murder with use of 18 a deadly weapon.

Robinson filed an amended petition for writ of habeas corpus (ECF No. 20) 19 under 18 U.S.C. § 2254. The Court denies the remaining grounds of Robinson’s Petition, denies 20 him a certificate of appealability, and directs the Clerk of Court to enter judgment accordingly. 21 II. BACKGROUND 22 a. FACTS UNDERLYING CONVICTION2 23 In February 2012, Cody Lucas (“Lucas”) and Mario Camacho (“Camacho”), Robinson’s 24 1 According to the state corrections department’s inmate locator page, Robinson is incarcerated at Southern 25 Desert Correctional Center (“SDCC”).

See <https://ofdsearch.doc.nv.gov/form.php>. The department’s website reflects that Ronald Oliver is the warden of that facility. See https://doc.nv.gov/Facilities/SDCC_Facility/. At the end of this 26 Order, the Court directs the Clerk of the Court to substitute Petitioner’s current immediate physical custodian, Ronald Oliver, as Respondent for the prior Respondent Gabriela Najera pursuant to Rule 25(d) of the Federal Rules of Civil 27 Procedure.

2 The facts underlying the conviction are derived from Robinson’s opening brief on direct appeal, see ECF 28 No. 22-17, and the state district court’s order denying Robinson’s state petition for writ of habeas corpus. See ECF No. 22-45. 1 co-defendant, went to the home of Frankie Wiest (“Wiest”), and took Wiest to Camacho’s house. 2 Robinson arrived at Camacho’s house, and they left to pick up two other men who were not 3 identified at trial.

The group returned to Camacho’s house, and Robinson and Camacho threatened 4 Lucas and Wiest, questioning them about missing money, drugs, and a stolen firearm. 5 The group left Camacho’s house. While driving, Camacho recognized B.S., Wiest’s 6 girlfriend, and rammed her car off the road. Camacho approached B.S.’s car with his firearm and 7 ordered her to move to the passenger seat.

The group drove to a nearby park where Camacho 8 threatened B.S. at gunpoint about missing money and drugs. The group then drove to B.S.'s 9 grandmother's home to search B.S.'s room for money and drugs. After searching her room and 10 finding no money or drugs, the group drove back to Camacho's house. 11 Robinson and Camacho directed Wiest and B.S. into the garage at gunpoint.

Camacho 12 ordered B.S. upstairs to his bedroom to interrogate her. Robinson entered the bedroom, ordered 13 B.S. to take her clothes off, and ordered her to get on her hands and knees while holding a gun to 14 her head. Camacho pleaded with Robinson to not rape her. Robinson threatened to kill B.S. if she 15 told anyone. Camacho gave B.S. her clothes and she got dressed.

Wiest and Lucas entered the 16 room and Camacho continued to interrogate Wiest, Lucas, and B.S. 17 The group went into Camacho's garage. In the garage, Robinson pointed a gun at B.S., 18 ordered her to sit on a stool, and told her to face the wall. Lucas and Wiest were each facing 19 Camacho as Camacho pointed guns at them. Camacho shot both Lucas and Wiest in the head, 20 killing Wiest and severely wounding Lucas.

Camacho stood over Lucas, called 9-1-1, and directed 21 Lucas to tell anyone who asked that an African American entered the garage and shot Lucas. 22 Robinson and Camacho allowed B.S. to leave with one of the unidentified men, who drove her a 23 few blocks away, leaving her with her car. Robinson fled with the weapons. 24 b. PROCEDURAL HISTORY 25 Following a nine-day trial wherein Robinson and Camacho were tried together, the jury 26 found Robinson guilty of conspiracy to commit kidnapping, first-degree kidnapping with use of a 27 deadly weapon, coercion with use of a deadly weapon, two counts of first-degree kidnapping with 28 use of a deadly weapon resulting in substantial bodily harm, attempted murder with use of a deadly 1 weapon, and first-degree murder with use of a deadly weapon.

The Nevada Supreme Court 2 affirmed the conviction. In June 2020, Robinson filed a state petition for writ of habeas corpus. 3 The state court denied post-conviction relief and the Nevada Supreme Court affirmed the denial 4 of relief. 5 Robinson initiated this federal habeas corpus proceeding pro se. See ECF No. 1. Following 6 appointment of counsel, Robinson filed an amended habeas petition.

See ECF Nos. 14, 20. The 7 Court granted Respondents' motion to dismiss, in part, dismissing Ground Three as untimely. See 8 ECF No. 29. 9 III. GOVERNING STANDARDS OF REVIEW 10 a. REVIEW UNDER THE ANTITERRORISM AND EFFECTIVE DEATH PENALTY ACT 11 28 U.S.C. § 2254(d) sets forth the standard of review generally applicable in habeas 12 corpus cases under the Antiterrorism and Effective Death Penalty Act ("AEDPA"): 13 An application for a writ of habeas corpus on behalf of a person in custody pursuant to the judgment of a State court shall not be granted with respect to any claim that 14 was adjudicated on the merits in State court proceedings unless the adjudication of the claim – 15 16 (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 17 of the United States; or 18 (2) resulted in a decision that was based on an unreasonable determination of the 19 facts in light of the evidence presented in the State court proceeding.

20 28 U.S.C. § 2254(d). A state court decision is contrary to clearly established Supreme Court 21 precedent, within the meaning of 28 U.S.C. § 2254(d), “if the state court applies a rule that 22 contradicts the governing law set forth in [Supreme Court] cases” or “if the state court confronts a 23 set of facts that are materially indistinguishable from a decision of [the Supreme] Court.” Lockyer 24 v. Andrade, 538 U.S. 63, 73 (2003) (first quoting Williams v. Taylor, 529 U.S. 362, 405–406 25 (2000), and then citing Bell v. Cone, 535 U.S. 685, 694 (2002)).

A state court decision is an 26 unreasonable application of clearly established Supreme Court precedent within the meaning of 27 28 U.S.C. § 2254(d) “if the state court identifies the correct governing legal principle from [the 28 Supreme] Court’s decisions but unreasonably applies that principle to the facts of the prisoner’s 1 case.” Id. at 75. 2 The Supreme Court has instructed that “[a] state court’s determination that a claim lacks 3 merit precludes federal habeas relief so long as ‘fairminded jurists could disagree’ on the 4 correctness of the state court’s decision.” Harrington v. Richter, 562 U.S. 86, 101 (2011) (citing 5 Yarborough v. Alvarado, 541 U.S. 652, 664 (2004)).

6 b. STANDARD FOR EVALUATING AN INEFFECTIVE ASSISTANCE OF COUNSEL 7 CLAIMS 8 In Strickland, the Supreme Court propounded a two-prong test for analysis of ineffective 9 assistance of counsel claims requiring Petitioner to demonstrate that: (1) counsel’s “representation 10 fell below an objective standard of reasonableness[;]” and (2) counsel’s deficient performance 11 prejudices Petitioner such that “there is a reasonable probability that, but for counsel’s 12 unprofessional errors, the result of the proceeding would have been different.” Strickland v. 13 Washington, 466 U.S. 668, 688 & 694 (1984).

Courts considering an ineffective assistance of 14 counsel claim must apply a “strong presumption that counsel’s conduct falls within the wide range 15 of reasonable professional assistance.” Id. at 689. It is Petitioner’s burden to show “counsel made 16 errors so serious that counsel was not functioning as the ‘counsel’ guaranteed... by the Sixth 17 Amendment.” Id. at 687.

Additionally, to establish prejudice under Strickland, it is not enough for 18 Petitioner to “show that the errors had some conceivable effect on the outcome of the proceeding.” 19 Id. at 693. Rather, errors must be “so serious as to deprive [Petitioner] of a fair trial, a trial whose 20 result is reliable.” Id. at 687. 21 Where a state court previously adjudicated the ineffective assistance of counsel claim under 22 Strickland, establishing the court’s decision was unreasonable is especially difficult.

See Richter, 23 562 U.S. at 104–105. In Richter, the Supreme Court clarified that Strickland and § 2254(d) are 24 each highly deferential, and when the two apply in tandem, review is doubly so. See id. at 105; see 25 also *Cheney v. Wash.*, 614 F.3d 987, 995 (9th Cir. 2010) (internal quotation marks omitted).

The 26 Court further clarified, “[w]hen § 2254(d) applies, the question is not whether counsel’s actions 27 were reasonable. The question is whether there is any reasonable argument that counsel satisfied 28 Strickland’s deferential standard.” Richter, 562 U.S. at 105. 1 2 IV. DISCUSSION 3 a. GROUND ONE—BATSON CHALLENGE 4 In Ground One, Robinson alleges that the State exercised peremptory challenges with 5 discriminatory intent in violation of his equal protection rights.

He alleges that the State’s 6 peremptory challenges of two African American jurors, Marquita James (“James”) and Judith 7 Barnes (“Barnes”), were racially motivated and prohibited by *Batson v. Kentucky*, 476 U.S. 79 8 (1986). During jury selection, defense counsel objected to the prosecution’s removal of 9 prospective jurors who were African American because it disproportionately reduced African 10 American representation on the jury panel.

11 i. Additional Background Information 12 1. Marquita James, Badge Number 665 13 James provided as follows regarding her brother that was a defendant in a criminal case 14 during general voir dire: 15 Ms. Rhoades: You or family members or close friends ever been accused of a crime? 16 Prospective Juror No. 665: Yes. 17 Ms. Rhoades: Okay. Tell me about that.

18 19 Prospective Juror No. 665: My brother has been accused of involuntary manslaughter. 20 Ms. Rhoades: Is that here or – 21 Prospective Juror No. 665: In California. ... 22 Prospective Juror No. 665:... I believe he’s awaiting trial. 23 Ms. Rhoades: Right now. 24 Prospective Juror No. 665: Correct. 25 Ms. Rhoades: Do you know – are you following that case closely?

26 Prospective Juror No. 665: No. He calls but I don’t accept. I went to visit him 27 once. I went to go visit my mother and she wanted to go see him and I took her. And outside of that, I haven’t really had much contact. I haven’t been a pen pal or 28 anything like that. ... 1 Ms. Rhoades: Do you know who was killed? 2 Prospective Juror No. 665: It was his girlfriend and they had just recently broke 3 up.

So, like on Sunday they were together. They decided to break up on Monday and on Tuesday they decided to go somewhere on a [motor] bike. There was an 4 accident and she didn’t make it. ... 5 Ms. Rhoades: Oh. And they were both on the motor bike. 6 Prospective Juror No. 665: Correct. 7 Ms. Rhoades: And something happened with that bike. Do you know what happened – 8 9 Prospective Juror No. 665: I don’t.

It crashed. I don’t know much more details, but I know that it crashed. 10 Ms. Rhoades: Is he in jail or is he out of jail awaiting trial? 11 Prospective Juror No. 665: He’s in jail. 12 13 ECF No.

21-39 at 122–25. 14 In addition, in response to questions related to whether James worked in law
15 enforcement related jobs, she provided the following: 16 Mr. Schieck: Have you ever worked
in any law enforcement type of profession?

17 Prospective Juror No. 665: I was a 9-1-1 dispatcher in Fort [indiscernible] California. 18 Mr.
Schieck: And that's after you got your [criminal justice] degree or while you 19 were getting your
degree? 20 Prospective Juror No. 665: It was while I was getting my degree. 21 Mr. Schieck: You
never then applied to be a police officer or followed up on that type of profession?

22 Prospective Juror No. 665: I have, but I haven't been selected. 23 Mr. Schieck: You've applied
to be a police officer? 24 Prospective Juror No. 665: Not a police officer. I preferred to work in
conjunction 25 with law enforcement. 26 Id. at 126–27. 27 The prosecution proffered the
following race-neutral justifications for striking 28 James: 1 So as far as the race-neutral reasons,
first with Marquita James, 665, she was a concern for us.

One, she did talk about how she had a criminal justice background 2 and she did state that she had
applied to law enforcement-type jobs, but she was never selected. So that was a little bit
concerning, knowing that we're going to have 3 police officers and things of that nature testify.

The second thing is that her brother is currently – it's not a past conviction where he's possibly
serving time or a drug 4 case that's since been closed – a brother that is currently facing trial and
in custody awaiting trial on a voluntary manslaughter charge. So similar to the violent nature 5 of
the crimes in the case, her brother is awaiting trial on that voluntary manslaughter charge.

And so that was a concern for us. 6 7 ECF No. 21-41 at 193. 8 2. Judith Barnes, Badge Number
533 9 Regarding Barnes's history as being a victim of a crime, she provided as follows during 10
general voir dire: 11 Mr. Schieck: Were you ever put in fear that you were going to be injured
during the course of this robbery? 12 Prospective Juror No. 532:3 No. 13 Mr. Schieck: You just
happened to be there in line when someone else came in 14 and – 15 Prospective Juror No. 532:
No. He was in line ahead of us.

He was -- I was there with my kids and at that time my ex-husband, deceased husband, whatever,
and he 16 waited in line just like the rest of us. Went up, said something to the teller and she kind
of got flustered and handed him some stuff and he turned around and walked 17 out the bank.
Then she fell apart. 18 Mr. Schieck: So it was kind of a polite robbery, but the teller was
traumatized.

19 Prospective Juror No. 532: Yeah, very polite. ... 20 Mr. Schieck: Okay. And then, I think you
said you had a home burglary in the 21 early '80s. Was that here in Las Vegas? ... 22 Prospective
Juror No. 532: It turned out he was the son of a lady that lived across the street two doors down
from us or two doors down, and he hit the neighborhood. 23 He evidently had a drug problem and
he hit a bunch of the houses.

He was a very polite one because he kicked the front door in, went into the room, took the jewelry 24 and went out. He didn't turn over anything, didn't toss anything. 25 Mr. Schieck: But it was, to your knowledge, he was doing that throughout the neighborhood to support his – 26 Prospective Juror No. 532: There were several homes that were burglarized that 27 28 3 The transcript refers to Barnes's badge number as badge number 532 in error.

During voir dire, Barnes is first introduced by her full name and correct badge number. See ECF No. 21-40 at 96. 1 day. 2 ECF No. 21-40 at 101–103. 3 The prosecution proffered the following race-neutral justifications for striking 4 Barnes: 5 As far as Ms. Barnes, she – 533 – the most concerning thing for Ms. Barnes – and before I get into that, I do not want to talk about some of the facts of this case [...]

6 so it was very concerning when Ms. Barnes talked about the person who went into her house, kicked the door, and didn't do anything but went straight back to the 7 room and took her jewelry and then left. And she – she said that that was very polite of him. So that was – that was really concerning for the State. And those are the 8 reasons – that's the reason – primary reason for Ms. Barnes.

I also recall some 9 questions – or some answers that she was giving to Mr. Langford when he was talking about the reasonable doubt as a bit concerning. But more than that, it was 10 the polite person who came in and robbed her, and how it's similar to – to what Mr. Camacho's doing in this case. 11 ECF No. 21-41 at 194–95. 12 ii. State Court Determination 13 The trial court denied the Batson challenge because the prosecution presented legitimate 14 non-discriminatory reasons for striking James and Barnes: 15 And I think that – that the fact that [James] was never selected by law enforcement 16 and that we're – although she says that doesn't bother her, the fact that there's going to be law enforcement, that the State could be concerned, in fact, that she does have 17 a bias against law enforcement, because she – she never was selected by law enforcement.

18 And the fact that... that her brother is awaiting trial on a voluntary manslaughter 19 charge, a very serious charge... And so while she said that wouldn't have any bearing on anything, I can see a concern by the State that she might, in fact, be 20 putting herself, you know, thinking about her own brother's situation and putting things under a microscope or, you know, have that weighing on her mind.

21 As to [Barnes],... it did concern me when – when she said – went on about how 22 polite this criminal was, that she kind of gave him credit for not tossing her – ransacking her place, but just merely went to the -- grabbed her jewelry and left. 23 24 But somehow that someone should get credit, because even though they break into 25 your house and steal your property that – that somehow they're a better criminal because they're polite and didn't do further damage in the house.

26 I could see where that could be concerning to the State, given, yeah, the facts of 27 this particular case, where, yes, we do have facts that are – are going to come out through one of the victims in this case that one of the defendants was seemingly 28 being somewhat her protector. That – interfering to further potential damage or crimes committed against her when she was forced to undress in a – in a room in a 1 very dangerous situation.

Or the fact that one of the defendants decided to let her go instead of, you know, shooting her. That that could, in fact, enter into a juror's 2 decision making process as opposed to focusing on what the facts are and applying the law to the facts. 3 So I think the State has articulated a race-neutral explanation and that the opponent 4 to the strike has not proved purposeful racial discrimination.

5 ECF No. 21-41 at 198–200. 6 On direct appeal, the Nevada Supreme Court held: 7 Robinson argues that the State violated his equal protection rights under the 8 Fourteenth Amendment by using its peremptory challenges to strike two of the three African American prospective jurors from the jury panel—Prospective Juror 9 Nos. 533 and 665.

We disagree. 10 The use of racially-motivated peremptory challenges violates the Equal Protection Clause of the Fourteenth Amendment. *Batson*, 476 U.S. at 89. When a defendant 11 mounts an equal protection challenge to the State's use of its peremptory challenges, the district court evaluates the equal protection challenge using the 12 three-part test outlined in *Batson*: 13...

14 The proponent of the *Batson* challenge has the ultimate burden of demonstrating that the prosecution's race-neutral explanation is pretextual such that "it is more 15 likely than not that the State engaged in purposeful discrimination." *McCarty v. 16 State*, 132 Nev. 218, 226 (2016). This court reviews the district court's determination on discriminatory intent for clear error.

Id. 17 We conclude that Robinson has failed to demonstrate that the district court's 18 determination was clearly erroneous. As required by step two of the *Batson* analysis, the State provided race-neutral explanations for striking both prospective 19 jurors.

The State explained that it struck Prospective Juror No. 533 because she had characterized a man who burglarized her home as "polite," showing that she may 20 have a lenient view towards criminals. The State struck Prospective Juror No. 665 based on her previous unsuccessful attempts to obtain employment with a law 21 enforcement agency and because her brother was on trial at the time for involuntary manslaughter.

Robinson failed to show that either of these race-neutral 22 explanations were pretextual or that the State engaged in purposeful discrimination. Thus, the district court did not err in rejecting Robinson's *Batson* challenge to the 23 State's peremptory challenges to the two prospective jurors. 24 ECF No. 22-24 at 3–5. 25 iii. Applicable Legal Standard 26 The Supreme Court has

held that the Equal Protection Clause forbids the challenging of 27 potential jurors solely on account of their race.

Batson, 476 U.S. at 93–94. In Batson, the Supreme 28 Court outlined a three-step burden-shifting framework for evaluating claims of discrimination in 1 the exercise of peremptory challenges. At step one, the moving party bears the burden to 2 “produc[e] evidence sufficient to permit the trial judge to draw an inference that discrimination 3 has occurred.” *Johnson v. Cal.*, 545 U.S. 162, 170 (2005).

Once the proponent makes a *prima facie* 4 showing, “the burden shifts to the [prosecutor] to explain adequately the racial exclusion by 5 offering permissible race-neutral justifications for the strikes.” *Id.* at 168 (internal quotation marks 6 omitted).

Finally, at step three, “[i]f a race-neutral explanation is tendered, the trial court must then 7 decide... whether the opponent of the strike has proved purposeful racial discrimination.” *Id.* 8 (internal quotation marks omitted). “[T]he ultimate burden of persuasion regarding racial 9 motivation rests with, and never shifts from, the opponent of the strike.” *Purkett v. Elem*, 514 U.S. 10 765, 768 (1995) (*per curiam*).

11 To fulfill its duty, “the trial court must evaluate the prosecutor’s proffered reasons and 12 credibility under ‘the totality of the relevant facts,’ using all the available tools including its own 13 observations and the assistance of counsel.” *Mitleider v. Hall*, 391 F.3d 1039, 1047 (9th Cir. 2004) 14 (quoting *Lewis v. Lewis*, 321 F.3d 824, 831 (9th Cir.

2003)). “As part of its evaluation of the 15 prosecutor’s reasoning, the court must conduct a comparative juror analysis—that is, it must 16 ‘compare African American panelists who were struck with those non-African American panelists 17 who were allowed to serve.’” *Jamerson v. Runnels*, 713 F.3d 1218, 1224 (9th Cir. 2013) (quoting 18 *Briggs v. Grounds*, 682 F.3d 1165, 1170 (9th Cir.

2012)). “The prosecution’s treatment of minority 19 jurors as compared to its treatment of nonminority jurors is among the facts indicative of the 20 presence of a purpose to discriminate.” *McDaniels v. Kirkland*, 813 F.3d 770, 778 (9th Cir. 2015) 21 (*en banc*) (citing *Miller-El v. Dretke*, 545 U.S. 231, 241 (2005) [hereinafter, “*Miller-El II*”]). 22 In reviewing a state court’s Batson determination, a federal habeas court “must accept a 23 state court finding unless it was based on unreasonable determination of the facts in light of the 24 evidence presented in the state court proceeding.” *Sifuentes v. Brazelton*, 825 F.3d 506, 517–18 25 (9th Cir.

2016) (explaining that review is doubly deferential because a federal court defers to the 26 state reviewing court’s determination of the facts, and a reviewing court defers to the trial court’s 27 determination of the prosecutor’s credibility). A federal habeas court must conduct a two-step 28 inquiry.

First, it “review[s] the relevant portions of the record and use[s] ordinary analytic tools to 1 evaluate the prosecutor’s race-neutral explanations” to determine whether those justifications are 2 contrary to the evidence or plausible. See *id.* 3 Second, the court must determine “whether the state appellate court was objectively 4 unreasonable in upholding the trial court’s determination.” See *id.* “Even if [the federal habeas 5 court] would have reached a different conclusion regarding the prosecutor’s credibility, [the court] 6 must give the state appellate court the benefit of the doubt.” *Felkner v. Jackson*, 562 U.S. 594, 598 7 (2011).

8 Where the state court has failed to conduct a comparative juror analysis, a habeas court 9 must conduct that analysis *de novo*, rather than by remanding the case to the state courts to do so. 10 See *Green v. LaMarque*, 532 F.3d at 1031 (citing *Miller-El II*, 545 U.S. at 241). Then, it must 11 reevaluate the state decision in light of the comparative analysis and any other evidence tending to 12 show purposeful discrimination in order to determine whether the state was unreasonable in 13 finding the prosecutor’s race-neutral explanations to be genuine.

See *Castellanos v. Small*, 766 14 F.3d 1137, 1148–51 (9th Cir. 2014). Where a state court conducted an analysis of the 15 characteristics of a dismissed juror and other jurors and determined that the prosecutor did not 16 exercise her peremptory challenges in a discriminatory manner, AEDPA deference applies, and a 17 federal court need not undertake comparative analysis *de novo*.

See *Briggs*, 682 F.3d at 1171 n.6. 18 iv. Analysis 19 1. James, Badge Number 665 20 The state appellate court’s denial of Robinson’s Batson challenge of James was not 21 objectively unreasonable. Robinson asserts that James never applied to work as a law enforcement 22 officer and that the State did not make a cursory inquiry as to whether she worked in law 23 enforcement.

The record, however, provides that when asked if following her criminal justice 24 education, she “ever applied to be a police officer or followed up on that type of profession,” James 25 responded that she applied, “but was not selected.” ECF No. 21-39 at 127.

On follow-up 26 questioning, she further provided that she did not apply to be a police officer, but “preferred to 27 work in conjunction with law enforcement.” *Id.* 28 A comparative analysis between James and the venire members the prosecutor did not 1 challenge does not demonstrate pretext or discrimination. Robinson asserts that for venire 2 members who were not African American, the State did not inquire about relatives who had been 3 accused or convicted of crimes or of venire members who committed crimes themselves.

4 Letica Papas (“Papas”), badge number 667, provided that her deceased brother had a DUI 5 conviction in the 1990s. ECF No. 21-40 at 82. A thirty-four-year-old David Frisbie (“Frisbie”), 6 badge number 520, indicated that he was convicted of an “underage DUI” when he was 20-years-

7 old. See *id.* at 60–64. Papas provided that she believed that the justice system treated her brother 8 fairly and Frisbie provided that he believed he was treated fairly by the police.

See *id.* at 64 & 82. 9 Although Papas and Frisbie had prior criminal convictions or family members with convictions, 10 such convictions were not of the same level of severity as the charge that James’s brother faced— 11 i.e., voluntary manslaughter.

In addition, as articulated by the prosecution in its race-neutral 12 explanation, James’s brother did not have “a past conviction where he’s possibly serving time or 13 a drug case that’s since been closed,” rather he was facing trial at the time while the criminal 14 convictions related to Papas and Frisbie were not recent or ongoing. 15 Considering the totality of the relevant facts about the prosecutor’s conduct as to James, 16 including a comparative juror analysis and the explanation that James was not selected for a law 17 enforcement related position and her brother’s ongoing criminal charge provided the basis for her 18 removal, the trial court could reasonably conclude the explanation for exercising the peremptory 19 challenge against James was race-neutral and that Robinson did not prove purposeful racial 20 discrimination.

Accordingly, the state appellate court’s rejection of Robinson’s challenge 21 concerning James was neither contrary to, nor an unreasonable application of clearly established 22 law, as determined by the United States Supreme Court and was not based on an unreasonable 23 determination of facts. 24 2. Barnes, Badge Number 533 25 The state appellate court’s denial of Robinson’s Batson challenge of Barnes was not 26 objectively unreasonable.

Robinson opposes the State’s race-neutral explanation, arguing that the 27 state appellate court’s conclusions were based on unreasonable determinations of fact that no 28 purposeful discrimination occurred. A comparative analysis between Barnes and the venire 1 members who were also victims of crimes the prosecutor did not challenge does not demonstrate 2 pretext or discrimination.

Although several of the venire members accepted by the State had been 3 victims of crimes, none had used more understanding or favorable language to describe the 4 individual committing the crime against them as Barnesm, who described the individual who 5 burglarized her home as being “very polite.” 6 Margirit Billings (“Billings”), badge number 448, recounted an attempted robbery of her 7 nightclub, wherein she stated, “I said what you going to do, shoot or what,” to the individual trying 8 to take money from her.

See ECF No. 21-39 at 81. She also described an interaction with gang 9 members who had threatened her providing that she “went up to them, I said, here I am, go ahead 10 and shoot me,” and that “they told everybody I was a crazy woman and to leave me alone.” *Id.* at 11 79–80. Kyle King (“King”), badge number 561, described an incident where an intruder attacked 12 him while he was sleeping.

See ECF No. 21-40 at 115. Upon questioning, King described that he 13 “choked [the intruder] until [King’s] dad showed up and was able to subdue him.” Id. 14 Michael Shanks (“Shanks”), badge number 527, described a “minor car incident,” that 15 occurred 10 years prior wherein monitors in his truck were stolen by breaking the windows of the 16 truck. See id. at 89.

Although Shanks described the incident as “minor,” it appears he was 17 qualifying the severity of the crime itself as opposed to commenting on the individual committing 18 the crime. In addition, the State’s explanation and concern was based on the facts of the case and 19 that Robinson’s co-defendant Camacho could be viewed as a “better criminal” because he “was 20 somewhat of a protector” of one of the victims.

See ECF No. 21-41 at 199. 21 Because a trial court’s decision on the question of discriminatory intent is a finding of fact 22 to be accorded great deference on appeal unless clear error, and the record fails to demonstrate 23 purposeful discrimination in the challenge of Barnes, the state appellate court reasonably 24 determined that Robinson failed to show that the State’s race-neutral explanation as to Barnes was 25 pretextual or that the State engaged in purposeful discrimination.

Because the state appellate 26 court’s determination denying Robinson relief concerning Barnes and James constituted an 27 objectively reasonable application of Batson and was not based on an unreasonable determination 28 of the facts, Robinson is not entitled to federal habeas relief for Ground One. 1 b. GROUND TWO⁴—TRIAL COURT’S DENIAL OF MOTIONS TO SEVER 2 In Ground Two, Robinson alleges that the trial court erred in denying his motions to sever 3 his trial from Camacho on the basis that their defenses would likely be antagonistic.

See ECF No. 4 20 at 13. In addition, Camacho made a statement to police that would likely offend Robinson’s 5 Sixth Amendment right to confront witnesses although ultimately the State did not enter that 6 statement into evidence. Nonetheless, Robinson asserts that the State elicited prejudicial testimony 7 from B.S. that would not have been admissible if Robinson and Camacho were tried separately.

8 Robinson asserts that B.S.’s testimony included a hearsay statement by Camacho: 9 Q: Did you hear a discussion between Mr. Camacho and Mr. Robinson at this time involving you? 10 A: Yes, sir. 11 Q: As best as you can, describe to this jury what was said and who said it. 12 13 A: [Camacho] begged him not to rape me, like, over and over again. Said, Please don’t rape her, dog.

Please don’t fucking rape her, please don’t 14 fucking rape her 15 ECF No. 21-45 at 122–23. 16 i. State Court Determination 17 The Nevada Supreme Court held: 18 Robinson argues that he was prejudiced because he and his codefendant Camacho had antagonistic defenses, but he has failed to show how the misjoinder had “a 19 substantial and injurious effect on the verdict.” Id. Antagonistic defenses are not in and of themselves a basis for finding prejudicial misjoinder, they must be mutually 20 antagonistic or irreconcilable.

Chartier, 124 Nev. at 766, 191 P.3d at 1186. Defenses are mutually antagonistic or irreconcilable when “there is [a] danger that 21 the jury will unjustifiably infer that this conflict alone demonstrates that both are guilty.” Id. at 765, 191 P.3d at 1185 (Marshall, 118 Nev. at 646, 56 P.3d at 378). 22 23 Robinson argues that the defenses became irreconcilable when Camacho denied having pulled the trigger.

We disagree. Neither Camacho nor the State accused 24 Robinson of having pulled the trigger, thus making the defenses reconcilable. See, e.g., Chartier, 124 Nev. at 762–67, 191 P.3d at 1183–87 (holding that codefendants’ 25 defenses were irreconcilable when the defendant implicated the codefendant and the codefendant denied participating entirely). Robinson was charged on three 26 bases of liability— first-degree murder, aiding and abetting, and conspiracy—and he conceded his guilt in closing argument.

Because Robinson conceded guilt during 27 his trial, he cannot demonstrate prejudice or how the jury could have unjustifiably 28 4 Robinson’s reply refers to this claim as Ground Three. However, his amended petition refers to it as Ground Two and the Court dismissed Ground Three as untimely. See ECF No. 29. 1 inferred his guilt.

We therefore conclude that any error in not severing the trial based on the antagonistic defenses would be harmless. 2 Robinson also argues that severance was warranted because Camacho elicited 3 prejudicial testimony from the victim-witness about Robinson’s participation in the crime.

However, Robinson failed to object to the witness’s testimony during the 4 trial, thus waiving this argument on appeal absent a showing of plain error. See *Browning v. State*, 124 Nev. 517, 533, 188 P.3d 60, 71 (2008) (“Generally, the 5 failure to object precludes appellate review absent plain error.”); *Valdez v. State*, 124 Nev. 1172, 1190, 196 P.3d 465, 477 (2008) (same).

Under a plain-error review, 6 Robinson must show that the error caused actual prejudice or miscarriage of justice. *Valdez*, 124 Nev. at 1190, 196 P.3d at 477. We conclude that Robinson had failed 7 to do so since he conceded guilt in his closing argument. 8 ECF No. 22-24 at 6–7. 9 ii. Applicable Legal Standard 10 In the context of joinder of federal defendants, the Supreme Court has stated: “Improper 11 joinder does not, in itself, violate the Constitution.

Rather, misjoinder would rise to the level of 12 constitutional violation only if it results in prejudice so great as to deny a defendant his Fifth 13 Amendment right to a fair trial.” *U.S. v. Lane*, 474 U.S. 438, 466 n.6 (1986); see also *Zafiro v. 14 U.S.*, 506 U.S. 534, 539 (1993) (holding that a court should grant a severance under Federal Rule 15 of Criminal Procedure 14 “only if there is a serious risk that a joint trial would compromise a 16 specific trial right of one of the defendants, or prevent the jury from making a reliable judgment 17 about guilt or innocence”).

18 However, “[t]here is no clearly established federal law requiring severance of criminal 19 trials in state court even when the defendants assert mutually antagonistic defenses[.]” 20 *Runnigeagle v. Ryan*, 686 F.3d 758, 774 (9th Cir. 2012); see also *Collins v. Runnels*, 603 F.3d 21 1127, 1132–33 (9th Cir. 2010) (hold[ing] that neither Zafiro nor Lane establish a constitutional 22 standard binding on the states requiring severance in cases where defendants present mutually 23 antagonistic defenses”).

Rather, “the statement in Lane regarding when misjoinder rises to the 24 level of constitutional violation was dicta and ... Zafiro is not binding on the state courts because 25 it addresses the Federal Rules of Criminal Procedure.” *Runnigeagle*, 686 F.3d at 776–77. 26 Under Section 2254(d)(1), “a federal court may not grant a state prisoner’s habeas 27 application unless the relevant state-court decision ‘was contrary to, or involved an unreasonable 28 application of, clearly established Federal law, as determined by the Supreme Court of the United 1 States.’” *Knowles v. Mirzayance*, 556 U.S. 111, 121 (2009) (quoting 28 U.S.C. § 2254(d)(1)).

2 “Section 2254(d)(1)’s ‘clearly established’ phrase ‘refers to the holdings, as opposed to the dicta, 3 of [the Supreme] Court’s decisions as of the time of the relevant state-court decision.’” *Lockyer v. 4 Andrade*, 538 U.S. 63, 71 (2003) (citation omitted); see also *White v. Woodall*, 134 S.Ct. 1697, 5 1702 (2014). 6 iii. Analysis 7 In the absence of Supreme Court precedent, Robinson is not entitled to habeas corpus relief 8 on Ground Two because Robinson has not shown that the Nevada Supreme Court acted contrary 9 to Supreme Court precedent in determining that he was not entitled to relief on his severance claim.

10 See *Wright v. Van Patten*, 552 U.S. 120, 126 (2008) (“Because our cases give no clear answer to 11 the question presented,... it cannot be said that the state court unreasonabl[y] appli[ed] clearly 12 established Federal law.

Under the explicit terms of § 2254(d)(1), therefore, relief is 13 unauthorized.”). Accordingly, the Court finds that no habeas relief is warranted on this claim. 14 c. GROUND FOUR—INEFFECTIVE ASSISTANCE RE: FAILURE TO OBJECT 15 In Ground Four, Robinson alleges that trial counsel rendered ineffective assistance for 16 failure to object to misstatements of fact and law.

During closing argument, Pike, Camacho’s 17 counsel, argued that “the circumstantial evidence is much more persuasive that it was fired from 18 the area that [Robinson] was identified as being.” ECF No. 21-49 at 62–62. He asserts that Pike’s 19 misstatements include arguing that “[t]here wasn’t anything found in the search of the house,” 20 highlighting that, “other than a suspect trajectory, which points toward [Robinson] doing those 21 things.” *Id.* at 62.

In addition, Robinson alleges that Pike’s closing argument further alluded that 22 Robinson was the shooter by arguing that “the murder occurred at the most out of control 23 individual, the most

– the one that was threatening to do the most harm to anybody. And up to and 24 including a rape.” ECF No. 21-49 at 64. 25 Witnesses B.S. and Lucas, however, testified that Camacho was the shooter.

Further, an 26 expert witness for the State, forensic pathologist Lisa Gavin, testified that the trajectory does not 27 identify where the shooter was standing. See ECF No. 21-47 at 86. Robinson asserts that his 28 counsel should have objected to Pike’s misrepresentations that painted Robinson as the shooter 1 and a rapist, which was not supported by the evidence.

2 i. State Court Determination 3 The Nevada Court of Appeals held: 4 Second, Robinson claimed counsel was ineffective for failing to object to misstatements of the facts and law his codefendant’s counsel made during closing 5 arguments. Specifically, Robinson claimed counsel should have objected to statements that the evidence showed Robinson was the shooter, he attempted to 6 sexually assault the female victim, and his codefendant stopped him.

Because Robinson conceded his guilt during his closing argument, Robinson failed to 7 demonstrate there was a reasonable probability of a different outcome at trial had counsel objected to the statements. Therefore, we conclude the district court did not 8 err by denying this claim. 9 ECF No. 23-10 at 3–4. 10 ii. Analysis 11 The Nevada appellate court’s decision is not contrary to, nor an unreasonable application 12 of, federal law as determined by the United States Supreme Court and is not based on unreasonable 13 determinations of fact in the state court record.

14 Robinson failed to demonstrate that, but for counsel’s failure to object to Pike’s statements 15 during closing argument, there is a reasonable probability that the outcome of the trial would have 16 been different.

As noted by the Nevada Court of Appeals, Robinson conceded to conspiracy to 17 commit robbery, conspiracy to commit kidnapping, and coercion during closing argument. See 18 ECF No. 21-49 at 67. Although conceding guilt to certain crimes, Robinson argued that Camacho 19 committed the murder and attempted murder. See *id.* The prosecution argued, and the jury was 20 instructed on multiple theories of liability, including the felony murder theory and the aider and 21 abettor theory.

Beyond Robinson’s concessions at closing, B.S. and Lucas’s testimony provided 22 that Robinson conspired with Camacho and that Robinson followed Camacho’s instructions. 23 In addition, the trial court specifically instructed the jury that “[s]tatements, arguments, and 24 opinions of counsel are not evidence in that case.” ECF No. 22-45 at 17. A jury is presumed to 25 follow the court’s instructions.

See *Weeks v. Angelone*, 528 U.S. 225, 234 (2000), and the 26 Supreme Court has observed that “arguments of counsel generally carry less weight with a jury 27 than do instructions from the court.” *Boyde v. California*, 494 U.S. 370, 384 (1990). Further, 28 Robinson’s closing argument

occurred after Camacho’s closing argument, and counsel took the 1 opportunity to directly refute Pike’s statement, highlighting that Camacho “took a gun and fired 2 into the face of two young men, killing one and horribly wounding another,” and that Camacho 3 was “in charge.” ECF No. 21-49 at 66–67.

4 Given that Robinson conceded to guilt of certain crimes, including conspiracy to commit 5 robbery and conspiracy to commit kidnapping, and the strength of the evidence against Robinson, 6 including Lucas’s and B.S.’s testimony, even if trial counsel had objected to Pike’s statements at 7 closing, there is no reasonable probability that the outcome of the proceedings would have been 8 different because the prosecution presented alternative theories of liability, including felony 9 murder and conspiracy or aiding and abetting under which the jury could have found Robinson 10 guilty.

Accordingly, the Nevada Court of Appeals reasonably determined that Robinson failed to 11 demonstrate prejudice under Strickland. Robinson is therefore denied habeas relief on Ground 12 Four. 13 V. CERTIFICATE OF APPEALABILITY 14 This is a final order adverse to Robinson. Rule 11 of the Rules Governing Section 2254 15 Cases requires the Court to issue or deny a certificate of appealability (“COA”).

Therefore, the 16 Court has sua sponte evaluated the claims within the petition for suitability for the issuance of a 17 COA. See 28 U.S.C. § 2253(c); see also *Turner v. Calderon*, 281 F.3d 851, 864–65 (9th Cir. 2002). 18 Pursuant to 28 U.S.C. § 2253(c)(2), a COA may issue only when the petitioner “has made a 19 substantial showing of the denial of a constitutional right.” 28 U.S.C. § 2253(c).

With respect to 20 claims rejected on the merits, a petitioner “must demonstrate that reasonable jurists would find the 21 district court’s assessment of the constitutional claims debatable or wrong.” *Slack v. McDaniel*, 22 529 U.S. 473, 484 (2000).

For procedural rulings, a COA will issue only if reasonable jurists could 23 debate (1) whether the petition states a valid claim of the denial of a constitutional right and (2) 24 whether this Court’s procedural ruling was correct. See *id.* Applying these standards, this Court 25 finds that a certificate of appealability is unwarranted. 26 /// 27 /// 28 /// 1 VI.

CONCLUSION 2 Therefore, IT IS HEREBY ORDERED that Petitioner Eric Deon Robinson’s first amended petition for writ of habeas corpus (ECF No. 20) is DENIED. 4 IT IS FURTHER ORDERED that a certificate of appealability is DENIED. 5 IT IS FURTHER ORDERED that the Clerk of the Court is directed to substitute Ronald 6| Oliver for Respondent Gabriela Najera, enter judgment accordingly, and close this case.

7 8 DATED: December 22, 2025. 10 RICHARD F. BOULWARE, ☐ 11 UNITED STATES DISTRICT JUDGE 12 13 14 15 16 17 18 19 20 21 22 23 24 25 26 27 28 -19-

Retrieved from lawtools.ai · <https://lawtools.ai/cases/federal/united-states-district-court-for-the-district-of-nevada/2025/eric-deon-robinson-v-gabriela-najera-et-al-yulbv8tg>