

bar for a federal court to grant *habeas corpus* relief to a state prisoner. Such relief may only be granted in two circumstances: if the state proceedings “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 if those state proceedings “resulted in a decision that was based on an unreasonable determination of the facts in light of the evidence presented in the State court proceeding” (*Anderson*, p 1133, citing 28 U.S.C. § 2254(d) (2012)).

The court further bifurcated the first criterion into two situations in which *habeas* relief may be granted: if the state court ruling was “contrary to clearly established federal law as determined by the Supreme Court”; or “involved an unreasonable application of clearly established federal law as determined by the Supreme Court” (*Anderson*, p 1133).

Citing *Pate v. Robinson*, 383 U.S. 375 (1966), the court noted that if a defendant displays such indications of incompetence that there is a *bona fide* doubt of his competence to stand trial, the judge must suspend proceedings and order a competency hearing. Failure to do so would be a violation of due process. The court also noted that the Supreme Court later elaborated on this *bona fide* doubt standard, stating that “evidence of a defendant’s irrational behavior, his demeanor at trial, and any prior medical opinion on competence to stand trial are all relevant in determining whether further inquiry is required, but that even one of those factors standing alone may, in some circumstances, be sufficient” (*Anderson*, p 1134, citing *Drope v. Missouri*, 420 U.S. 162, 180 (1975)).

The court determined that, according to the standard outlined by the Supreme Court, Mr. Anderson’s irrational behavior, improper decorum, and suicide attempt each were sufficient to raise a *bona fide* doubt of competency. There was contention that Mr. Anderson may have indeed received a mental health evaluation following his suicide attempt, but the court failed to make a record of any such evaluation. Given the *bona fide* doubt of Mr. Anderson’s competency, the Ninth Circuit found that the trial court judge erred in not ordering a competency hearing.

The court determined that “[i]n the face of strong indicia of incompetence, including a *bona fide* suicide attempt on the eve of trial, *Pate* and its progeny demand more than such speculation: they demand a competency hearing” (*Anderson*, p 1135).

The court determined that the California Court of Appeal’s denial of *habeas* relief on the above grounds represented an “unreasonable application” of clearly established federal law. Because the court found error in the state court’s failure to order a competency hearing, the court did not address Mr. Anderson’s additional grounds for appeal.

Discussion

The AEDPA, enacted in 1996, contains multiple provisions that affect the appeals process in United States courts. Its impact on *habeas* relief is notable for the limited scope in which federal judges may grant relief, requiring a determination that the state court was “unreasonable” in its application of the law. The bar for determining unreasonableness, as set forth in the AEDPA, goes beyond a federal judge’s disagreement with state court judge’s interpretation of the law, when a legitimate legal uncertainty arises in the proceedings. Rather, a federal judge must determine that no “fair minded jurist” would have agreed with the state court’s determination (*Anderson*, p 1133, quoting *Yarborough v. Alvarado*, 541 U.S. 652, 664 (2004)). The Ninth Circuit held that *Anderson* was one such scenario. The *Anderson* opinion also reaffirms the broad principle that a court must order a competency evaluation whenever there is a *bona fide* doubt about the defendant’s competence. Failure to do so is a clear, unambiguous violation of due process.

Does Counsel’s Failure to Request a Competency Evaluation Always Amount to Ineffective Assistance?

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Counsel’s opposition to a court-ordered mental health evaluation is a reasonable defense strategy and failure to request a competence evaluation is not necessarily ineffective legal counsel

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In *Camacho v. Kelley*, 888 F.3d 389 (8th Cir. 2018), the Eighth Circuit Court of Appeals considered whether failure to obtain a competency evaluation for a capital crime defendant amounted to ineffective counsel in the setting of lack of reasonable evidence of incompetence. The court applied the test from *Strickland v. Washington*, 466 U.S. 668 (1984) to determine whether the appellant's counsel was deficient, and, if so, whether this prejudiced the defense and thereby deprived him of a fair trial.

Facts of the Case

On May 6, 2006, Manuel Enrique Camacho was driving in his car with Serafin Sandoval-Vega when he was offended by the aggressive or inattentive driving of another vehicle by Tracy Stith. In response, Mr. Camacho provided his handgun to Mr. Sandoval-Vega and instructed him to shoot at Ms. Stith's car. Mr. Sandoval-Vega fired three bullets, one of which fatally struck Daniel Francis, the passenger accompanying Ms. Stith. Mr. Camacho was later arrested and ultimately charged with capital murder as an accomplice in Benton County, Arkansas.

During a pretrial hearing on August 7, 2007, Benton County Circuit Judge Tom Keith ordered a mental health evaluation of Mr. Camacho, as was customary for cases involving the death penalty. The defense attorney, Tim Buckley, objected on grounds that Mr. Camacho's participation in a mental health evaluation would not be privileged and therefore could lead to him making self-incriminating statements. Judge Keith granted the objection with the caveat that the defense retain an independent mental health evaluator.

The defense enlisted three separate experts (Dr. Pablo Stewart, Dr. Martin Faitak, and Dr. Antonio Puente), each of whom engaged in some form of evaluation or testing of Mr. Camacho. In his report, Dr. Stewart described Mr. Camacho as having major depressive disorder, posttraumatic stress disorder (PTSD), substance use concerns, and low-average IQ. Dr. Puente completed neuropsychiatric testing at the request of Dr. Stewart. Dr. Puente's evaluation supported the diagnosis of PTSD and identified "severe frontal lobe deficits . . . ranking in the 1st percentile" (*Camacho*, p 393). None of the three experts expressed concern regarding Mr. Camacho's competency to proceed to trial.

The trial began on July 11, 2008. After three days of jury selection, Mr. Camacho accepted a plea deal to escape the possibility of the death penalty. In exchange

for his admission of guilt, he received a penalty of life in prison without opportunity for parole. After exhausting his state remedies for postconviction relief, Mr. Camacho petitioned for *habeas* relief to the U.S. District Court for the Western District of Arkansas. Among other arguments, he alleged that his defense counsel was deficient due to counsel's failure to obtain a formal competency evaluation prior to his submission of a guilty plea.

A *habeas* hearing was granted, and on November 8, 2016, eight years after the original trial, the district court considered Mr. Camacho's claim of deficient counsel and whether he lacked competency to enter a plea. At the hearing, the federal district court called upon Dr. Stewart, Mr. Camacho's attorneys, and Judge Keith to testify. Dr. Stewart testified that he was never asked to complete a competency evaluation. He then remarked that Mr. Camacho was likely not competent to enter a plea deal and that Mr. Camacho's admission of guilt should be discounted because he had only provided two-word responses to Judge Keith's questions on the topic.

Judge Keith testified that he had originally requested a mental health evaluation of Mr. Camacho because this would be customary in death penalty cases. He found the defense counsel's arguments against a court-ordered evaluation to be persuasive and, moreover, trusted the decision given that the defense counsel were experienced attorneys. Judge Keith did admit that had he been aware of Dr. Stewart's findings, he would have been concerned regarding competency. Nonetheless, he reflected that nothing in his observations of Mr. Camacho ever led him to question Mr. Camacho's ability to participate in the trial or plea deal.

Mr. Camacho's defense attorneys similarly testified that nothing in their interactions with Mr. Camacho led to any doubts about his competence. They noted that the areas of concern regarding fitness to enter a plea—i.e., "understanding the charge and penalties; understanding the role of the judge, prosecutor, and defense lawyers; understanding the evidence and elements of the offense; understanding the defenses; and being able to assist in his own defense" (*Camacho*, p 394)—were not problematic for Mr. Camacho. Both lawyers testified that Mr. Camacho plainly understood the proceedings and was actively involved in his defense.

The federal district court therefore denied Mr. Camacho's petition for *habeas* relief. Mr. Camacho appealed.

Ruling and Reasoning

The U.S. Court of Appeals for the Eighth Circuit upheld the district court’s ruling and affirmed the denial of Mr. Camacho’s petition for *habeas* relief. The court applied the two-pronged *Strickland* test to address whether Mr. Camacho’s legal counsel was deficient and, if so, whether said counsel “prejudiced the defense such that it deprived the defendant of a fair trial” (*Camacho*, p 394).

In applying the first prong of *Strickland*, the court noted that their review was highly deferential to the professional conduct of counsel with the strong presumption that “counsel’s conduct falls within a wide range of reasonable professional assistance” (*Camacho*, p 394, citing *Strickland*, p 689). The court stated that Mr. Camacho had not shown that his counsel’s initial performance was deficient, and it determined that foregoing a mental health evaluation was a reasonable strategy, given concerns about Mr. Camacho making remarks damaging to his defense. Additionally, the court did not find compelling Mr. Camacho’s argument that his lawyers were deficient in failing to have a competency evaluation performed prior to entry of his plea. The court noted that nothing in the report of three clinicians who evaluated him would have caused a reasonably professional counsel to conclude that Mr. Camacho was incompetent to stand trial or to enter a plea. The court concluded that the forensic evaluation, at most, supported a diminished capacity defense and that, in its observations, Mr. Camacho consistently demonstrated awareness and understanding of the legal proceedings throughout his repeated interactions with counsel and Judge Keith, leaving no evidence to suggest a lack of competence to enter a plea deal.

Applying the second prong of the *Strickland* test, the court determined that Mr. Camacho did not demonstrate that his counsel’s performance prejudiced the defense such that he was deprived of a fair trial. The court acknowledged that a few factors favored Mr. Camacho, but that taken as a whole, the facts did not support his argument that he would have been found incompetent had a competency evaluation been performed. The court opined that Dr. Stewart’s testimony (i.e., that Mr. Camacho was incompetent to enter a plea) was both eight years removed from his initial evaluation of Mr. Camacho and could easily have been confirmed through a competency assessment that Dr. Stewart elected not to perform. In addition, the court cited Judge Keith’s testimony that his observations of Mr.

Camacho’s behavior during trial led him to believe that Mr. Camacho was competent. Moreover, Mr. Camacho appeared to act reasonably in pleading guilty to avoid capital punishment, further precluding a finding of incompetence. Therefore, the court concluded that the evidence reflected that Mr. Camacho was, in fact, competent and not deprived of a fair trial, even though his counsel did not request a competency evaluation.

Discussion

In *Pate v. Robinson*, 383 U.S. 375 (1966), the Supreme Court held that a trial court’s failure to raise the issue of competency in the presence of a “*bona fide* doubt” about the defendant’s competency to stand trial is a violation of due process. Subsequently, in *Drope v. Missouri*, 420 U.S. 162 (1975), the Court elaborated on this “*bona fide* doubt” standard, stating, “evidence of a defendant’s irrational behavior, his demeanor at trial, and any prior medical opinion on competence to stand trial are all relevant in determining whether further inquiry is required, but that even one of those factors standing alone may, in some circumstances, be sufficient” (*Drope*, p 180).

In the present case, none of the involved parties in the trial, including three mental health evaluators, questioned Mr. Camacho’s ability to comprehend or participate in legal proceedings at the time of his trial. Witnesses testified that he appeared competent based on his interactions with counsel and court, and in his submission of a guilty plea to avoid capital punishment. Even though Mr. Camacho’s mental health evaluations identified the diagnoses of major depressive disorder, PTSD, poly-substance abuse, and “frontal lobe impairment,” the court recognized that the mere presence of a diagnosis of mental illness did not, by itself, raise a *bona fide* doubt regarding his competency to proceed.

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Mental Health Factors in Immigration Court

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