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NOTE: Where it is feasible, a syllabus (headnote) will be released, as is being done in connection with this case, at the time the opinion is issued. The syllabus constitutes no part of the opinion of the Court but has been prepared by the Reporter of Decisions for the convenience of the reader. See *United States* v. *Detroit Timber & Lumber Co.,* 200 U. S. 321, 337.

SUPREME COURT OF THE UNITED STATES

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ROMPILLA *v.* BEARD, SECRETARY, PENNSYLVANIA DEPARTMENT OF CORRECTIONS

CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE THIRD CIRCUIT

No. 04–5462. Argued January 18, 2005—Decided June 20, 2005

Petitioner Rompilla was convicted of murder and other crimes. During the penalty phase, the jury found the aggravating factors that the murder was committed during a felony, that it was committed by torture, and that Rompilla had a significant history of felony convictions indicating the use or threat of violence. In mitigation, five members of Rompilla's family beseeched the jury for mercy. He was sentenced to death, and the Pennsylvania Supreme Court affirmed. His new lawyers filed for state postconviction relief, claiming ineffective assistance by his trial counsel in failing to present significant mitigating evidence about Rompilla's childhood, mental capacity and health, and alcoholism. The state courts found that trial counsel had sufficiently investigated the mitigation possibilities. Rompilla then raised inadequate representation in a federal habeas petition. The District Court found that the State Supreme Court had unreasonably applied *Strickland* v. *Washington,* 466 U. S. 668, concluding that trial counsel had not investigated obvious signs that Rompilla had a troubled childhood and suffered from mental illness and alcoholism, unjustifiably relying instead on Rompilla's own description of an unexceptional background. In reversing, the Third Circuit found nothing unreasonable in the state court's application of *Strickland,* given defense counsel's efforts to uncover mitigation evidence from Rompilla, certain family members, and three mental health experts. The court distinguished *Wiggins* v. *Smith,* 539 U. S. 510—in which counsel had failed to investigate adequately to the point of ignoring the leads their limited enquiry yielded—noting that, although trial counsel did not unearth useful information in Rompilla's school, medical, police, and prison records, their investigation had gone far enough to

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give them reason to think that further efforts would not be a wise use of their limited resources.

Held: Even when a capital defendant and his family members have suggested that no mitigating evidence is available, his lawyer is bound to make reasonable efforts to obtain and review material that counsel knows the prosecution will probably rely on as evidence of aggravation at the trial's sentencing phase. Pp. 4–18.

(a) Rompilla's entitlement to federal habeas relief turns on showing that the state court's resolution of his ineffective-assistance claim under *Strickland "*resulted in a decision that was contrary to, or involved an unreasonable application of, clearly established Federal law, as determined by" this Court, 28 U. S. C. §2254(d)(1). The state court's result must be not only incorrect but also objectively unreasonable. *Wiggins, supra,* at 520–521. In judging the defense's investigation in preparing for a capital trial's sentencing phase, hindsight is discounted by pegging adequacy to "counsel's perspective at the time" investigative decisions were made and by giving deference to counsel's judgments. *Strickland, supra,* at 689, 691. Pp. 4–5.

(b) Here, the lawyers were deficient in failing to examine the court file on Rompilla's prior rape and assault conviction. They knew that the Commonwealth intended to seek the death penalty by proving that Rompilla had a significant history of felony convictions indicating the use or threat of violence, that it would attempt to establish this history by proving the prior conviction, and that it would emphasize his violent character by introducing a transcript of the rape victim's trial testimony. Although the prior conviction file was a public record, readily available at the courthouse where Rompilla was to be tried, counsel looked at no part of it until warned by the prosecution a second time, and even then did not examine the entire file. With every effort to view the facts as a defense lawyer would have at the time, it is difficult to see how counsel could have failed to realize that not examining the file would seriously compromise their opportunity to respond to an aggravation case. Their duty to make all reasonable efforts to learn what they could about the offense the prosecution was going to use certainly included obtaining the Commonwealth's own readily available file to learn what it knew about the crime, to discover any mitigating evidence it would downplay, and to anticipate the details it would emphasize. The obligation to examine the file was particularly pressing here because the violent prior offense was similar to the crime charged and because Rompilla's sentencing strategy stressed residual doubt. This obligation is not just common sense, but is also described in the American Bar Association Standards for Criminal Justice, which are "'guides to determining what is reasonable,'" *Wiggins, supra,* at 524. The state court's conclusion

that defense counsel's efforts to find mitigating evidence by other means were enough to free them from further enquiry fails to answer the considerations set out here, to the point of being objectively unreasonable. No reasonable lawyer would forgo examination of the file thinking he could do as well by asking the defendant or family relations what they recalled. Nor would a reasonable lawyer compare possible searches for school reports, juvenile records, and evidence of drinking habits to the opportunity to take a look at a file disclosing what the prosecutor knows and plans to read from in his case. Pp. 5–14.

(c) Because the state courts found counsel's representation adequate, they never reached the prejudice element of a *Strickland* claim, whether "there is a reasonable probability that, but for counsel's unprofessional errors, the result . . . would have been different," 466 U. S., at 694. A *de novo* examination of this element shows that counsel's lapse was prejudicial. Had they looked at the prior conviction file, they would have found a range of mitigation leads that no other source had opened up. The imprisonment records contained in that file pictured Rompilla's childhood and mental health very differently from anything they had seen or heard. The accumulated entries—*e.g.,* that Rompilla had a series of incarcerations, often related to alcohol; and test results that would have pointed the defense's mental health experts to schizophrenia and other disorders—would have destroyed the benign conception of Rompilla's upbringing and mental capacity counsel had formed from talking to five family members and from the mental health experts' reports. Further effort would presumably have unearthed much of the material postconviction counsel found. Alerted to the school, medical, and prison records that trial counsel never saw, postconviction counsel found red flags pointing up a need for further testing, which revealed organic brain damage and childhood problems probably related to fetal alcohol syndrome. These findings in turn would probably have prompted a look at easily available school and juvenile records, which showed additional problems, including evidence of a highly abusive home life. The evidence adds up to a mitigation case bearing no relation to the few naked pleas for mercy actually put before the jury. The undiscovered "mitigating evidence, taken as a whole, 'might well have influenced the jury's appraisal' of [Rompilla's] culpability," *Wiggins, supra,* at 538, and the likelihood of a different result had the evidence gone in is "sufficient to undermine confidence in the outcome" actually reached at sentencing, *Strickland, supra,* at 694. Pp. 14–18.

355 F. 3d 233, reversed.

SOUTER, J., delivered the opinion of the Court, in which STEVENS,

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O'CONNOR, GINSBURG, and BREYER, JJ., joined. O'CONNOR, J., filed a concurring opinion. KENNEDY, J., filed a dissenting opinion, in which REHNQUIST, C. J., and SCALIA and THOMAS, JJ., joined.