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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

#### Syllabus

## CAREY, WARDEN v. MUSLADIN

# CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE NINTH CIRCUIT

No. 05–785. Argued October 11, 2006—Decided December 11, 2006

At respondent Musladin's murder trial, members of the victim's family sat in the front row of the spectators' gallery wearing buttons displaying the victim's image. The trial court denied Musladin's motion to order the family members not to wear the buttons. The California Court of Appeal upheld Musladin's conviction, stating that he had to show actual or inherent prejudice to succeed on the buttons claim; citing Holbrook v. Flynn, 475 U. S. 560, as providing the test for inherent prejudice; and ruling that he had not satisfied that test. The Federal District Court denied Musladin's habeas petition, but the Ninth Circuit reversed and remanded, finding that the state court's decision "was contrary to, or involved an unreasonable application of, clearly established Federal law," 28 U. S. C. §2254(d)(1), as determined by this Court in Estelle v. Williams, 425 U. S. 501, and Flynn, supra.

- *Held:* The Ninth Circuit improperly concluded that the California Court of Appeal's decision was contrary to or an unreasonable application of clearly established federal law as determined by this Court. Pp. 3–7.
  - (a) Because "clearly established Federal law" in §2254(d)(1) "refers to the holdings, as opposed to the dicta, of this Court's decisions as of the time of the relevant state-court decision," *Williams* v. *Taylor*, 529 U. S. 362, 412, federal habeas relief may be granted here if the California Court of Appeal's decision was contrary to or involved an unreasonable application of this Court's applicable holdings. Pp. 3–4.
  - (b) This Court addressed the effect of courtroom practices on defendants' fair-trial rights in *Williams*, in which the State compelled the defendant to stand trial in prison clothes, and *Flynn*, in which the State seated uniformed state troopers in the row of spectators' seats immediately behind the defendant at trial. In both cases, which dealt

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with government-sponsored practices, the Court noted that some practices are so inherently prejudicial that they must be justified by an "essential state" policy or interest. E.g., Williams, supra, at 505. Pp. 4–5.

(c) In contrast to state-sponsored courtroom practices, the effect on a defendant's fair-trial rights of the spectator conduct to which Musladin objects is an open question in this Court's jurisprudence. The Court has never addressed a claim that such private-actor courtroom conduct was so inherently prejudicial that it deprived a defendant of a fair trial or applied the test for inherent prejudice in Williams and Flynn to spectators' conduct. Indeed, part of that test—asking whether the practices furthered an essential state interest—suggests that those cases apply only to state-sponsored practices. Reflecting the lack of guidance from this Court, lower courts have diverged widely in their treatment of defendants' spectator-conduct claims. Given the lack of applicable holdings from this Court, it cannot be said that the state court "unreasonably applifed] . . . clearly established Federal law." Pp. 5–7.

427 F. 3d 653, vacated and remanded.

THOMAS, J., delivered the opinion of the Court, in which ROBERTS, C. J., and Scalia, Ginsburg, Breyer, and Alito, JJ., joined. Stevens, J., Kennedy, J., and Souter, J., filed opinions concurring in the judgment.