

Syllabus

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

WIGGINS *v.* SMITH, WARDEN, ET AL.CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR
THE FOURTH CIRCUIT

No. 02–311. Argued March 24, 2003—Decided June 26, 2003

In 1989, petitioner Wiggins was convicted of capital murder by a Maryland judge and subsequently elected to be sentenced by a jury. His public defenders, Schlaich and Nethercott, moved to bifurcate the sentencing, representing that they planned to prove that Wiggins did not kill the victim by his own hand and then, if necessary, to present a mitigation case. The court denied the motion. At sentencing, Nethercott told the jury in her opening statement that they would hear, among other things, about Wiggins' difficult life, but such evidence was never introduced. Before closing arguments and outside the presence of the jury, Schlaich made a proffer to the court to preserve the bifurcation issue for appeal, detailing the mitigation case counsel would have presented. Schlaich never mentioned Wiggins' life history or family background. The jury sentenced Wiggins to death, and the Maryland Court of Appeals affirmed. Represented by new counsel, Wiggins sought postconviction relief, arguing that his trial counsel had rendered ineffective assistance by failing to investigate and present mitigating evidence of his dysfunctional background. He presented expert testimony by a forensic social worker about the severe physical and sexual abuse he had suffered at the hands of his mother and while under the care of a series of foster parents. Schlaich testified that he did not remember retaining a forensic social worker to prepare a social history before sentencing, even though state funds were available for that purpose, and explained that he and Nethercott had decided to focus on retrying the factual case and disputing Wiggins' direct responsibility for the murder. The trial court denied the petition, and the State Court of Appeals affirmed, concluding that trial counsel had made a reasoned choice to proceed with what they considered their best defense. Sub-

Syllabus

sequently, the Federal District Court granted Wiggins relief on his federal habeas petition, holding that the Maryland courts' rejection of his ineffective assistance claim involved an unreasonable application of clearly established federal law. In reversing, the Fourth Circuit found trial counsel's strategic decision to focus on Wiggins' direct responsibility to be reasonable.

Held: The performance of Wiggins' attorneys at sentencing violated his Sixth Amendment right to effective assistance of counsel. Pp. 7–26.

(a) A federal writ can be granted only if a state court decision “was contrary to, or involved an unreasonable application of, clearly established” precedents of this Court. 28 U. S. C. §2254(d)(1). This “unreasonable application” prong permits the writ to be granted when a state court identifies the correct governing legal principle but unreasonably applies it to the facts of a petitioner's case. *Williams v. Taylor*, 529 U. S. 362, 413. For this standard to be satisfied, the state court decision must have been “objectively unreasonable,” *id.*, at 409, not just incorrect or erroneous. An ineffective assistance claim has two components: A petitioner must show that counsel's performance was deficient, and that the deficiency prejudiced the defense. *Strickland v. Washington*, 466 U. S. 668, 687. Performance is deficient if it falls below an objective standard of reasonableness, which is defined in terms of prevailing professional norms. *Id.*, at 688. Here, as in *Strickland*, counsel claim that their limited investigation into petitioner's background reflected a tactical judgment not to present mitigating evidence and to pursue an alternative strategy instead. In evaluating petitioner's claim, this Court's principal concern is not whether counsel should have presented a mitigation case, but whether the investigation supporting their decision not to introduce mitigating evidence of Wiggins' background was *itself reasonable*. The Court thus conducts an objective review of their performance, measured for reasonableness under prevailing professional norms, including a context-dependent consideration of the challenged conduct as seen from counsel's perspective at the time of that conduct. *Id.*, at 688, 689. Pp. 7–10.

(b) Counsel did not conduct a reasonable investigation. Their decision not to expand their investigation beyond a presentence investigation (PSI) report and Baltimore City Department of Social Services (DSS) records fell short of the professional standards prevailing in Maryland in 1989. Standard practice in Maryland capital cases at that time included the preparation of a social history report. Although there were funds to retain a forensic social worker, counsel chose not to commission a report. Their conduct similarly fell short of the American Bar Association's capital defense work standards. Moreover, in light of the facts counsel discovered in the DSS records concerning Wiggins' alcoholic mother and his problems in foster care,

Syllabus

counsel's decision to cease investigating when they did was unreasonable. Any reasonably competent attorney would have realized that pursuing such leads was necessary to making an informed choice among possible defenses, particularly given the apparent absence of aggravating factors from Wiggins' background. Indeed, counsel discovered no evidence to suggest that a mitigation case would have been counterproductive or that further investigation would have been fruitless, thus distinguishing this case from precedents in which this Court has found limited investigations into mitigating evidence to be reasonable. The record of the sentencing proceedings underscores the unreasonableness of counsel's conduct by suggesting that their failure to investigate thoroughly stemmed from inattention, not strategic judgment. Until the trial court denied their bifurcation motion, they had had every reason to develop the most powerful mitigation case possible. During the sentencing process itself, counsel did not focus exclusively on Wiggins' direct responsibility for the murder; rather they put on a halfhearted mitigation case instead. The Maryland Court of Appeals' assumption that counsel's investigation was adequate reflected an unreasonable application of *Strickland*. In deferring to counsel's decision not to present every conceivable mitigation defense despite the fact that counsel based their alleged choice on an inadequate investigation, the Maryland Court of Appeals further unreasonably applied *Strickland*. And the court's conclusion that the social services records revealed incidences of sexual abuse, when they in fact did not, reflects "an unreasonable determination of the facts in light of evidence presented in the State court proceeding," 28 U. S. C. §2254(d)(2). Contrary to the State's and the United States' contention, the record as a whole does not support the conclusion that counsel conducted a more thorough investigation than the one this Court describes. Ultimately, this Court's conclusion that counsel's investigation was inadequate does not mean that *Strickland* requires counsel to investigate every conceivable line of mitigating evidence no matter how unlikely the effort would be to assist the defendant at sentencing. Nor does *Strickland* require counsel to present such evidence at sentencing in every case. Rather, the conclusion is based on the much more limited principle that "strategic choices made after less than complete investigation are reasonable" only to the extent that "reasonable professional judgments support the limitations on investigation." *Strickland, supra*, at 690–691. Pp. 10–22.

(c) Counsel's failures prejudiced Wiggins' defense. To establish prejudice, a defendant must show that there is a reasonable probability that, but for counsel's unprofessional errors, the proceeding's result would have been different. *Strickland, supra*, at 694. This

Syllabus

Court assesses prejudice by reweighing the aggravating evidence against the totality of the mitigating evidence adduced both at trial and in the habeas proceedings. *Williams v. Taylor, supra*, 397–398. The mitigating evidence counsel failed to discover and present here is powerful. Wiggins experienced severe privation and abuse while in the custody of his alcoholic, absentee mother and physical torment, sexual molestation, and repeated rape while in foster care. His time spent homeless and his diminished mental capacities further augment his mitigation case. He thus has the kind of troubled history relevant to assessing a defendant’s moral culpability. *Penry v. Lynaugh*, 492 U. S. 302, 319. Given the nature and extent of the abuse, there is a reasonable probability that a competent attorney, aware of this history, would have introduced it at sentencing, and that a jury confronted with such mitigating evidence would have returned with a different sentence. The only significant mitigating factor the jury heard was that Wiggins had no prior convictions. Had it been able to place his excruciating life history on the mitigating side of the scale, there is a reasonable probability that at least one juror would have struck a different balance. Wiggins had no record of violent conduct that the State could have introduced to offset this powerful mitigating narrative. Thus, the available mitigating evidence, taken as a whole, might well have influenced the jury’s appraisal of his moral culpability. Pp. 22–26.

288 F. 3d 629, reversed and remanded.

O’CONNOR, J., delivered the opinion of the Court, in which REHNQUIST, C. J., and STEVENS, KENNEDY, SOUTER, GINSBURG, and BREYER, JJ., joined. SCALIA, J., filed a dissenting opinion, in which THOMAS, J., joined.