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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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HOUSE *v.* BELL, WARDEN

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

No. 04–8990. Argued January 11, 2006—Decided June 12, 2006

A Tennessee jury convicted petitioner House of Carolyn Muncey's murder and sentenced him to death. The State's case included evidence that FBI testing showing semen consistent (or so it seemed) with House's on Mrs. Muncey's clothing and small bloodstains consistent with her blood but not House's on his jeans. In the sentencing phase, the jury found, *inter alia,* the aggravating factor that the murder was committed while House was committing, attempting to commit, or fleeing from the commission of rape or kidnaping. In affirming, the State Supreme Court described the evidence as circumstantial but strong. House was denied state postconviction relief. Subsequently, the Federal District Court denied habeas relief, deeming House's claims procedurally defaulted and granting the State summary judgment on most of his claims. It also found, after an evidentiary hearing at which House attacked the blood and semen evidence and presented other evidence, including a putative confession, suggesting that Mr. Muncey committed the crime, that House did not fall within the "actual innocence" exception to procedural default recognized in *Schlup* v. *Delo,* 513 U. S. 298, and *Sawyer* v. *Whitley,* 505 U. S. 333. The Sixth Circuit ultimately affirmed.

Held:

1. Because House has made the stringent showing required by the actual-innocence exception, his federal habeas action may proceed. Pp. 16–34.

(a) To implement the general principle that "comity and finality 'must yield to the imperative of correcting a fundamentally unjust incarceration,'" *Murray* v. *Carrier,* 477 U. S. 478, 495, this Court has ruled that prisoners asserting innocence as a gateway to defaulted claims must establish that, in light of new evidence, "it is more likely

than not that no reasonable juror would have found petitioner guilty beyond a reasonable doubt." *Schlup,* 513 U. S, at 327. Several features of *Schlup*'s standard bear emphasis here. First, while the gateway claim requires "new reliable evidence . . . not presented at trial," *id.,* at 324, the habeas court must assess the likely impact of "'all the evidence'" on reasonable jurors, *id.,* at 329. Second, rather than requiring absolute certainty about guilt or innocence, a petitioner's burden at the gateway stage is to demonstrate that more likely than not, in light of the new evidence, no reasonable juror would find him guilty beyond a reasonable doubt. Finally, this standard is "by no means equivalent to the standard of *Jackson* v. *Virginia,* 443 U. S. 307," which governs insufficient evidence claims, *id.,* at 330. Rather, because a *Schlup* claim involves evidence the trial jury did not have before it, the inquiry requires the federal court to assess how reasonable jurors would react to the overall, newly supplemented record. See *ibid.* Contrary to the State's arguments, the standard of review in two provisions of the Antiterrorism and Effective Death Penalty Act of 1996, 28 U. S. C. §§2244(b)(2)(B)(ii) and 2254(e)(2), is inapplicable here. In addition, because the standard does not address a "district court's independent judgment as to whether reasonable doubt exists," *Schlup, supra,* at 329, a ruling in House's favor does not require the showing of clear error as to the District Court's specific findings. It is with these principles in mind that the evidence developed in House's federal habeas proceedings should be evaluated. Pp. 16–20.

(b) In direct contradiction of evidence presented at trial, DNA testing has established that semen on Mrs. Muncey's clothing came from her husband, not House. While the State claims that the evidence is immaterial since neither sexual contact nor motive were elements of the offense at the guilt phase, this Court considers the new disclosure of central importance. This case is about who committed the crime, so motive is key, and the prosecution at the guilt phase referred to evidence at the scene suggesting that House committed, or attempted to commit, an indignity on Mrs. Muncey. Apart from proving motive, this was the only forensic evidence at the scene that would link House to the murder. Law and society demand accountability for a sexual offense, so the evidence was also likely a factor in persuading the jury not to let him go free. At sentencing, moreover, the jury concluded that the murder was committed in the course of a rape or kidnaping. A jury acting without the assumption that the semen could have come from House would have found it necessary to establish some different motive, or, if the same motive, an intent far more speculative. Pp. 20–22.

(c) The evidentiary disarray surrounding the other forensic evi-

dence, the bloodstains on House's pants, taken together with the testimony of an Assistant Chief Medical Examiner for the State of Tennessee, would prevent reasonable jurors from placing significant reliance on the blood evidence. The medical examiner who testified believes the blood on the jeans must have come from the autopsy samples. In addition, a vial and a quarter of autopsy blood is unaccounted for; the blood was transported to the FBI together with the pants in conditions that could have caused the vials to spill; some blood did spill at least once during the blood's journey from Tennessee authorities through FBI hands to a defense expert; the pants were stored in a plastic bag bearing a large bloodstain and a label from a Tennessee Bureau of Investigation agent; and the box containing the blood samples may have been opened before arriving at the FBI lab. None of this evidence was presented to the trial jury. Whereas the bloodstains seemed strong evidence of House's guilt at trial, the record now raises substantial questions about the blood's origin. Pp. 22–28.

(d) In the post-trial proceedings, House presented troubling evidence that Mr. Muncey could have been the murderer. Two witnesses described a confession by Mr. Muncey; two others described suspicious behavior (a fight between the couple and Mr. Muncey's attempt to construct a false alibi) around the time of the crime; and others described a history of spousal abuse. Considered in isolation, a reasonable jury might well disregard this evidence, but in combination with the challenges to the blood evidence and lack of motive with respect to House, evidence pointing to Mr. Muncey likely would reinforce other doubts as to House's guilt. Pp. 28–33.

(e) The Assistant Chief Medical Examiner further testified that certain injuries discovered on House after the crime likely did not result from involvement in the murder. Certain other evidence—Mrs. Muncey's daughter's recollection of the night of the murder, and the District Court's finding at the habeas proceeding that House was not a credible witness—may favor the State. Pp. 33–34.

(f) While this is not a case of conclusive exoneration, and the issue is close, this is the rare case where—had the jury heard all the conflicting testimony—it is more likely than not that no reasonable juror viewing the record as a whole would lack reasonable doubt. P. 34.

2. House has not shown freestanding innocence that would render his imprisonment and planned execution unconstitutional under *Herrera* v. *Collins,* 506 U. S. 390, in which the Court assumed without deciding that "in a capital case a truly persuasive demonstration of 'actual innocence' made after trial would render the execution of a defendant unconstitutional, and warrant federal habeas relief if there

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were no state avenue open to process such a claim," *id.,* at 417. The threshold showing for such a right would be extraordinarily high, and House has not satisfied whatever burden a hypothetical freestanding innocence claim would require. He has cast doubt on his guilt sufficient to satisfy *Schlup*'s gateway standard for obtaining federal review, but given the closeness of the *Schlup* question here, his showing falls short of the threshold implied in *Herrera.* Pp. 34–36.

386 F. 3d 668, reversed and remanded.

KENNEDY, J., delivered the opinion of the Court, in which STEVENS, SOUTER, GINSBURG, and BREYER, JJ., joined. ROBERTS, C. J., filed an opinion concurring in the judgment in part and dissenting in part, in which SCALIA and THOMAS, JJ., joined. ALITO, J., took no part in the consideration or decision of the case.