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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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WADDINGTON, SUPERINTENDENT, WASHINGTON CORRECTIONS CENTER *v.* SARAUSAD

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

No. 07–772. Argued October 15, 2008—Decided January 21, 2009

Respondent Sarausad drove the car in a driveby shooting at a high school, which was the culmination of a gang dispute. En route to school, Ronquillo, the front seat passenger, covered his lower face and readied a handgun. Sarausad abruptly slowed down upon reaching the school, Ronquillo fired at a group of students, killing one and wounding another, and Sarausad then sped away. He, Ronquillo, and Reyes, another passenger, were tried on murder and related charges. Sarausad and Reyes, who were tried as accomplices, argued that they were not accomplices to murder because they had not known Ronquillo's plan and had expected at most another fistfight. In her closing argument, the prosecutor stressed Sarausad's knowledge of a shooting, noting how he drove at the scene, that he knew that fighting alone would not regain respect for his gang, and that he was "in for a dime, in for a dollar." The jury received two instructions that directly quoted Washington's accomplice-liability law. When it failed to reach a verdict as to Reyes, the judge declared a mistrial as to him. The jury then convicted Ronquillo on all counts and convicted Sarausad of second-degree murder and related crimes. In affirming Sarausad's conviction, the State Court of Appeals, among other things, referred to an "in for a dime, in for a dollar" accomplice-liability theory. The State Supreme Court denied review, but in its subsequent *Roberts* case, it clarified that "in for a dime, in for a dollar" was not the best descriptor of accomplice liability because an accomplice must have knowledge of the crime that occurred. The court also explicitly reaffirmed its precedent that the type of jury instructions used at Sarausad's trial comport with Washington law. Sarausad sought state postconviction relief, arguing that the prose-

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cutor's improper "in for a dime, in for a dollar" argument may have led the jury to convict him as an accomplice to murder based solely on a finding that he had anticipated that an assault would occur. The state appeals court reexamined the trial record in light of *Roberts*, but found no error requiring correction. The State Supreme Court denied Sarausad's petition, holding that the trial court correctly instructed the jury and that no prejudicial error resulted from the prosecutor's potentially improper hypothetical. Sarausad then sought review under 28 U. S. C. §2254, which, *inter alia,* permits a federal court to grant habeas relief on a claim "adjudicated on the merits" in state court only if the decision "was contrary to, or involved an unreasonable application of, clearly established Federal law, as determined by" this Court, §2254(d)(1). The District Court granted the petition, and the Ninth Circuit affirmed, finding it unreasonable for the state court to affirm Sarausad's conviction because the jury instruction on accomplice liability was ambiguous and there was a reasonable likelihood that the jury misinterpreted the instruction in a way that relieved the State of its burden of proving Sarausad's knowledge of a shooting beyond a reasonable doubt.

Held: Because the state-court decision did not result in an "unreasonable application of . . . clearly established Federal law," §2254(d)(1), the Ninth Circuit erred in granting habeas relief to Sarausad. Pp. 10–17.

(a) When a state court's application of governing federal law is challenged, the decision " 'must be shown to be not only erroneous, but objectively unreasonable.' " *Middleton* v. *McNeil*, 541 U. S. 433, 436 *(per curiam).* A defendant challenging the constitutionality of a jury instruction that quotes a state statute must show both that the instruction was ambiguous and that there was " 'a reasonable likelihood' " that the jury applied the instruction in a way that relieved the State of its burden of proving every element of the crime beyond a reasonable doubt. *Estelle* v. *McGuire*, 502 U. S. 62, 72. The instruction "must be considered in the context of the instructions as a whole and the trial record," *ibid.,* and the pertinent question is whether the "instruction by itself so infected the entire trial that the resulting conviction violates due process,' " *ibid.* Pp. 10–11.

(b) Because the Washington courts' conclusion that the jury instruction was unambiguous was not objectively unreasonable, the Ninth Circuit should have ended its §2254(d)(1) inquiry there. The instruction parroted the state statute's language, requiring the jury to find Sarausad guilty as an accomplice "in the commission of the [murder]" if he acted "with knowledge that [his conduct would] promote or facilitate the commission of the [murder]," Wash. Rev. Code §§9A.08.020(2)(c), (3)(a). The instruction cannot be assigned any

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meaning different from the one given to it by the Washington courts. Pp. 11–12.

(c) Even if the instruction were ambiguous, the Ninth Circuit still erred in finding it so ambiguous as to cause a federal constitutional violation requiring reversal under AEDPA. The Washington courts reasonably applied this Court's precedent when they found no "reasonable likelihood" that the prosecutor's closing argument caused the jury to apply the instruction in a way that relieved the State of its burden to prove every element of the crime beyond a reasonable doubt. The prosecutor consistently argued that Sarausad was guilty as an accomplice because he acted with knowledge that he was facilitating a driveby shooting. She never argued that the admission by Sarausad and Reyes that they anticipated a fight was a concession of accomplice liability for murder. Sarausad's attorney also homed in on the key question, stressing a lack of evidence showing that Sarausad knew that his assistance would promote or facilitate a premeditated murder. Every state and federal appellate court that reviewed the verdict found the evidence supporting Sarausad's knowledge of a shooting legally sufficient to convict him under Washington law. Given the strength of that evidence, and the jury's failure to convict Reyes—who had also been charged as an accomplice to murder and admitted knowledge of a possible fight—it was not objectively unreasonable for the Washington courts to conclude that the jury convicted Sarausad because it believed that he, unlike Reyes, had knowledge of more than just a fistfight. The Ninth Circuit's contrary reasoning is unconvincing. Pp. 13–17.

479 F. 3d 671, reversed and remanded.

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