

No. _____

IN THE SUPREME COURT
OF THE UNITED STATES

LEONARD CONTRERAS SANDOVAL,

Petitioner,

v.

BRAD CAIN, Superintendent,
Snake River Correctional Institution,

Respondent.

APPLICATION FOR EXTENSION OF TIME WITHIN WHICH
TO FILE A PETITION FOR A WRIT OF CERTIORARI TO THE
UNITED STATES COURT OF APPEALS FOR THE NINTH CIRCUIT

TO THE HONORABLE ELENA KAGAN, ASSOCIATE JUSTICE OF THE UNITED STATES SUPREME COURT AND CIRCUIT JUSTICE FOR THE NINTH CIRCUIT:

Pursuant to Supreme Court Rule 13.5, Applicant Leonard Contreras Sandoval requests a 60-day extension of time, to and including November 15, 2024, within which to file a petition for a writ of certiorari in this case. The Ninth Circuit issued its published opinion and entered judgment in this matter on June 18, 2024. See App. A. Absent an extension of time, Applicant's petition for certiorari would be due on or before September 16, 2024. This application complies with Rules 13.5 and 30.2 because it is being filed ten

days or more before the petition is due. This Court's jurisdiction would be invoked under 28 U.S.C. § 1254(1).

1. Applicant is an adult in the custody of the Oregon Department of Corrections who is serving a life sentence for the crime of murder. He has petitioned for a writ of habeas corpus under 28 U.S.C. § 2254(d)(1) and (2), alleging that his conviction was obtained in violation of his Sixth Amendment right to the effective assistance of counsel, and that the state court rulings were contrary to and/or involved an unreasonable application of *Strickland v. Washington*, 466 U.S. 668 (1984), and depended on an antecedent unreasonable determination of the facts.

2. The district court and court of appeals held that, while Applicant demonstrated that his counsel performed deficiently, he failed to demonstrate that he was prejudiced by his lawyer's unprofessional omissions. Applicant contends that these rulings and the underlying state court rulings conflict with governing precedents from this Court regarding the proper evaluation of prejudice, reflecting a pervasive distortion and dilution of the pertinent standard.

3. Applicant respectfully requests a 60-day extension of time to file a petition for a writ of certiorari, to and including November 15, 2024. The petition for a writ of certiorari has been partially drafted, but additional time is required for further research and analysis, and for the petition to be finalized, formatted, and indices prepared in accordance with the Rules of this Court. There is good cause for this extension to allow Applicant to prepare and file a petition for a writ of certiorari. There is also good cause for this extension

because Applicant's counsel has other pressing matters in the weeks leading up to and following the current deadline, including multiple briefs due in the District of Oregon as well as appellate briefs due in the Ninth Circuit and District of Columbia Circuit Courts of Appeal. Applicant's counsel also missed over two weeks of work in August for unforeseen circumstances, namely illness and a bereavement.

For the foregoing reasons, Applicant respectfully requests that the time for filing a petition for a writ of certiorari in this case be extended by 60 days, to and including November 15, 2024.

DATED this 5th day of September 2024.

/s/ Susan F. Wilk
Susan F. Wilk
Assistant Federal Public Defender
Attorney for Petitioner

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LEONARD CONTRERAS SANDOVAL,

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BRAD CAIN, Superintendent,
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On Application For Extension Of Time Within Which
To File A Petition For A Writ Of Certiorari To The
United States Court Of Appeals For The Ninth Circuit

CERTIFICATE OF SERVICE AND MAILING

I, Susan Wilk, counsel of record and a member of the Bar of this Court, certify that pursuant to Rule 29.3, service has been made of the within APPLICATION FOR EXTENSION OF TIME WITHIN WHICH TO FILE A PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE NINTH CIRCUIT on the counsel for the respondent by depositing in the United States Post Office,

in Portland, Oregon on September 5, 2024, first class postage prepaid, a certified true, exact
and full copy thereof addressed to:

Jordan R. Silk, Assistant Attorney General
Oregon Department of Justice
Appellate Division
1162 Court St NE
Salem OR 97301

/s/ Susan F. Wilk
Susan F. Wilk
Assistant Federal Public Defender
Attorney for Petitioner

Appendix A

NOT FOR PUBLICATION

FILED

UNITED STATES COURT OF APPEALS

JUN 18 2024

FOR THE NINTH CIRCUIT

MOLLY C. DWYER, CLERK
U.S. COURT OF APPEALS

<p>LEONARD CONTRERAS SANDOVAL,</p> <p>Petitioner-Appellant,</p> <p>v.</p> <p>BRAD CAIN, Superintendent, Snake River Correctional Institution,</p> <p>Respondent-Appellee.</p>

No. 23-35213

D.C. No. 2:19-cv-01278-SI

MEMORANDUM*

Appeal from the United States District Court
for the District of Oregon
Michael H. Simon, District Judge, Presiding

Submitted June 6, 2024**
Portland, Oregon

Before: RAWLINSON, FORREST, and SUNG, Circuit Judges.

Leonard Contreras Sandoval (Contreras Sandoval) appeals the district court’s denial of his habeas petition under 28 U.S.C. § 2254, after Contreras Sandoval was convicted of murder in Oregon state court. Contreras Sandoval

* This disposition is not appropriate for publication and is not precedent except as provided by Ninth Circuit Rule 36-3.

** The panel unanimously concludes this case is suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

argues that his trial counsel was ineffective under *Strickland v. Washington*, 466 U.S. 668 (1984) for failing to obtain his military records and offer a use-of-force and military combat training expert at trial to support his self-defense theory. We have jurisdiction pursuant to 28 U.S.C. §§ 1291 and 2253, and we affirm.

“We review de novo a district court’s denial of a habeas corpus petition and review for clear error any factual findings made by the district court. . . .” *Hart v. Bloomfield*, 97 F.4th 644, 652 (9th Cir. 2024) (citation omitted). “But we are constrained by the Antiterrorism and Effective Death Penalty Act (AEDPA), which governs habeas review of state convictions.” *Iversen v. Pedro*, 96 F.4th 1284, 1286 (9th Cir. 2024). “Under AEDPA, we must defer to the last state court’s reasoned decision¹ on any claim that was adjudicated on the merits unless that decision is (1) contrary to, or involved an unreasonable application of, clearly established Federal law, as determined by the Supreme Court or (2) based on an unreasonable determination of the facts in light of the evidence presented in the State court proceeding. . . .” *Id.* (citation and internal quotation marks omitted).

1. As an initial matter and based on the post-conviction court’s statement that it “read 90 percent” of the trial transcript, Contreras Sandoval argues that the court’s decision is not subject to the customary AEDPA deference. Under *Strickland*, “a court hearing an ineffectiveness claim must consider the totality of

¹ In this case, the last reasoned decision was that of the state post-conviction court.

the evidence,” 466 U.S. at 695, but a state court “need not address ‘every jot and tittle of proof suggested to them.’” *Kipp v. Davis*, 971 F.3d 939, 954 (9th Cir. 2020) (citation omitted). The state post-conviction court acknowledged the totality of the evidence standard, and adhered to that standard in finding no prejudice. Accordingly, the post-conviction court’s ruling is entitled to AEDPA deference. *See Iversen*, 96 F.4th at 1286.

2. The post-conviction court’s determination that Contreras Sandoval was not prejudiced by his counsel’s ineffective performance was not contrary to or an unreasonable application of *Strickland*. “*Strickland*’s ‘prejudice’ prong requires a defendant to show there is a reasonable probability that, but for counsel’s unprofessional errors, the result of the proceeding would have been different. . . .” *Lewis v. Andes*, 95 F.4th 1166, 1177 (9th Cir. 2024) (citation and internal quotation marks omitted).

We agree with the district court that the experts’ testimony was “of somewhat limited value” under Oregon law, being “necessarily . . . based on [their] assessment of [Contreras Sandoval’s] believability.” *State v. Sperou*, 442 P.3d 581, 588 (Or. 2019) (en banc) (citation omitted). In any event, the jury was aware that Contreras Sandoval was a skilled shooter due to his military background. And the State introduced ample evidence to dispel Contreras Sandoval’s self-defense theory, including that Contreras Sandoval often communicated a desire to kill the

victim, and even divulged a plan to prompt the victim to brandish a firearm so that Contreras Sandoval could shoot the victim and assert self-defense. The State also presented evidence that the trajectory of the bullet established that Contreras Sandoval exited his vehicle to shoot the victim, refuting the premise that Contreras Sandoval was reacting to a threat created by the victim.

3. Finally, we are not persuaded by Contreras Sandoval's contention that the post-conviction court's ruling was based on an unreasonable determination of the facts. Based on the record evidence, the post-conviction court "could reasonably determine that" Contreras Sandoval planned to provoke the victim. *Sifuentes v. Brazelton*, 825 F.3d 506, 531 (9th Cir. 2016), *as amended*.

AFFIRMED.