

[DO NOT PUBLISH]

IN THE UNITED STATES COURT OF APPEALS
FOR THE ELEVENTH CIRCUIT

No. 18-13127
Non-Argument Calendar

D.C. Docket No. 1:16-cv-24434-MGC

JAVOR WILLIAMS,

Petitioner-Appellant,

versus

FLORIDA DEPARTMENT OF CORRECTIONS,

Respondent-Appellee.

Appeal from the United States District Court
for the Southern District of Florida

(May 1, 2019)

Before BRANCH, GRANT, and JULIE CARNES, Circuit Judges.

PER CURIAM:

Javor Williams, a *pro se* Florida prisoner, appeals the denial of his 28 U.S.C. § 2254 petition challenging his convictions and 50-year sentence for attempted

felony murder, attempted armed robbery, and conspiracy to commit armed robbery. The district court granted a certificate of appealability on Williams's claim that he received ineffective assistance of counsel.

I.

In April 2004, Williams and his associates followed Janelle Delgado home from her grandfather's store. Williams pointed a gun at Delgado and demanded her bag. Delgado pushed the gun out of her face and Williams shot her in the abdomen.

The State of Florida charged Williams by information, alleging that he committed attempted felony murder by attempting to commit robbery and committing a separate intentional act that could have, but did not kill another, *see* Fla. Stat. Ann. § 782.051 (2001) (felony murder), "by POINTING A FIREARM AT JANELLE DELGADO, and during the course of the commission of the offense, said defendant discharged a firearm or destructive device and as a result of the discharge, death or great bodily harm was inflicted upon JANELLE DELGADO." Williams entered an unconditional guilty plea on the morning of trial.

During the plea colloquy, the State recited a factual basis for Williams's plea, including the fact that the shooting was intentional. Williams pleaded guilty to the charges in the information "based upon the fact pattern given by the

prosecutor.” His convictions and sentences were affirmed on direct appeal.

Williams v. State, 36 So.3d 109 (Fla. Dist. Ct. App. 2009).

Williams filed a *pro se* state collateral attack on his felony murder conviction, arguing that his counsel was ineffective for allowing him to plead guilty to a defective charging document. He argued that the information was fatally defective as to the felony murder charge because the intentional act that it alleged, pointing a firearm at Delgado, was an essential element of the robbery and therefore could not also serve as the intentional act for the felony murder under Florida law. Williams further argued that shooting Delgado could not serve as the separate intentional act because it was part of the same use of force as pointing the gun.

After a complicated procedural course, the Florida Third District Court of Appeal rejected Williams’s arguments, holding that even if his counsel had challenged the information, the State could have amended it to state a correct and sufficient charge of attempted felony murder simply by deleting the extraneous phrase about pointing the firearm at Delgado. *Williams v. State*, 182 So.3d 11, 14–15 & n.3 (Fla. Dist. Ct. App. 2015). Williams attempted to rob Delgado by pointing the gun at her and demanding her bag, and the later act of shooting her was sufficiently distinct to support the felony murder charge. *Id.*; see Fla. Stat. § 782.051(1) (2001) (felony murder); Fla. Stat. § 812.13(2)(a) (robbery). The

Florida Court of Appeals therefore held that Williams had not met his burden of showing prejudice under *Strickland v. Washington*, 466 U.S. 668 (1984), because even if his attorney had objected to the charging document, “the outcome would have been the same—an open plea to an amended charge of attempted felony murder that alleged Williams’ intentional act of shooting the victim, an allegation that is not an essential element of the attempted robbery and is fully supported by the record.” *Id.* at 16.

II.

Federal courts may not grant habeas corpus relief to a state prisoner on a claim that was resolved on the merits by a state court unless the state court’s decision: “(1) resulted in a decision that was contrary to, or involved an unreasonable application of, clearly established Federal law, as determined by the Supreme Court of the United States; or (2) resulted in a decision that was based on an unreasonable determination of the facts in light of the evidence presented in the State court proceeding.” 28 U.S.C. § 2254(d). “A state court decision is ‘contrary to’ clearly established law if the court arrived at a conclusion opposite to one reached by the Supreme Court on a question of law or the state court confronted facts that were ‘materially indistinguishable’ from relevant Supreme Court precedent but arrived at a different result.” *Boyd v. Comm’r, Ala. Dep’t of Corr.*, 697 F.3d 1320, 1330 (11th Cir. 2012) (quoting *Williams v. Taylor*, 529 U.S. 362,

405 (2000)). A state court decision involves an “unreasonable application” of Supreme Court precedent “if the state court unreasonably extends or fails to extend a clearly established legal principle to a new context.” *Id.* The relevant “clearly established federal law” for purposes of an ineffective-assistance claim is set out in *Strickland v. Washington*, 466 U.S. 668 (1984). See *Premo v. Moore*, 562 U.S. 115, 118 (2011).

To succeed on a claim of ineffective assistance of counsel, a defendant must show both that his attorney’s performance was deficient according to “prevailing professional norms,” and that he was prejudiced by the inadequate performance. *Strickland*, 466 U.S. at 687–88. A court need not address both prongs of the *Strickland* analysis if it is convinced that the defendant has not demonstrated prejudice; “[i]f it is easier to dispose of an ineffectiveness claim on the ground of lack of sufficient prejudice,” the court may and should do so. *Id.* at 697.

To establish prejudice, “[t]he defendant must show that there is a reasonable probability that, but for counsel’s unprofessional errors, the result of the proceeding would have been different.” *Id.* at 694. In the context of a guilty plea, this means that the defendant must show “a reasonable probability that, but for counsel’s errors, he would not have pleaded guilty and would have insisted on going to trial.” *Premo*, 562 U.S. at 129 (quoting *Hill v. Lockhart*, 474 U.S. 52, 59 (1985)).

The *Strickland* standard is “‘highly deferential,’” as is the review of a state court decision under AEDPA; “when the two apply in tandem, review is ‘doubly’ so.” *Harrington v. Richter*, 562 U.S. 86, 105 (2011) (citation omitted). To succeed on federal habeas corpus, a petitioner must show that the state court’s ruling “was so lacking in justification that there was an error well understood and comprehended in existing law beyond any possibility for fairminded disagreement.” *Id.* at 103. Williams cannot meet that standard here.

According to the Florida Court of Appeals, if Williams’s attorney had raised a timely objection to the information, Florida law would have permitted the State to amend the document to state a valid charge of felony murder. *See Fla. R. Crim. P. 3.140(j)* (permitting amendments to the information “at any time prior to trial because of formal defects”). At that point, Williams would have been in exactly the same position he was in when he chose to plead guilty in the first place, and he has not made any showing that he would not have pleaded guilty to a corrected charge. Thus, the state court’s conclusion that Williams could not meet the prejudice prong of the *Strickland* test was reasonable, and the district court did not err in denying Williams’s § 2254 petition.

AFFIRMED.