

NOT FOR PUBLICATION

In the  
United States Court of Appeals  
For the Eleventh Circuit

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No. 24-14213  
Non-Argument Calendar

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JOSEPH E. HAAS,

*Petitioner-Appellant,*

*versus*

SECRETARY, FLORIDA DEPARTMENT OF CORRECTIONS,

*Respondent-Appellee.*

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Appeal from the United States District Court  
for the Southern District of Florida  
D.C. Docket No. 2:21-cv-14017-AMC

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Before NEWSOM, GRANT, and ANDERSON, Circuit Judges.

PER CURIAM:

Joseph Haas, a Florida prisoner proceeding with counsel, appeals from the district court's denial of his 28 U.S.C. § 2254 petition for a writ of habeas corpus, arguing that his convictions for

first-degree arson of a dwelling and arson causing great bodily harm violate the Double Jeopardy Clause.

We review de novo the district court’s denial of a habeas corpus petition under 28 U.S.C. § 2254. *Davis v. Comm’r, Ala. Dep’t of Corr.*, 120 F.4th 768, 788 (11th Cir. 2024) (citing *Ward v. Hall*, 592 F.3d 1144, 1155 (11th Cir. 2010)). The Antiterrorism and Effective Death Penalty Act of 1996 (“AEDPA”) governs § 2254 petitions and provides that a federal court may not grant a habeas petition with respect to a claim that was decided on the merits unless the state court decision was (1) “contrary to, or involved an unreasonable application of, clearly established Federal law, as determined by the Supreme Court of the United States; or (2) . . . based on an unreasonable determination of the facts in light of the evidence presented in the State court proceeding.” *Davis*, 120 F.4th at 788 (quoting 28 U.S.C. § 2254(d)(1)–(2)).

Clearly established federal law consists of the holdings of the Supreme Court’s decisions at the time the state court issues its decision. *Davis*, 120 F.4th at 788 (citing *Gavin v. Comm’r, Ala. Dep’t of Corr.*, 40 F.4th 1247, 1262 (11th Cir. 2022)). To establish an unreasonable application of federal law, the petitioner must show that the state court’s decision was so clearly wrong that there is no possibility for fair-minded disagreement. *Id.* at 788–89 (citing *Shinn v. Kayer*, 592 U.S. 111, 118 (2020)).

Not infrequently, state-court decisions aren’t accompanied by a written explanation. As a rule, federal habeas court should “look through” any unexplained decision to the last related state-

24-14213

Opinion of the Court

3

court decision that provides a relevant rationale and presume that the unexplained decision adopted the same reasoning. *Wilson v. Sellers*, 584 U.S. 122, 125 (2018). On occasion, though, there is no reasoned decision to which to look. An unexplained rejection of a habeas petitioner’s constitutional claim still qualifies as an adjudication on the merits. *See Harrington v. Richter*, 562 U.S. 86, 98-100 (2011). In that case, the petitioner must show that there was not a reasonable basis for the state court’s denial of relief. *See id.* at 98. We must then analyze what arguments could have supported the state court’s decision and determine whether fair-minded jurists could deem those arguments inconsistent with the prior decisions of the Supreme Court. *Id.* at 102.

Here, we have two state-court decisions to contend with. First, on direct appeal, Haas raised a double-jeopardy claim for the first time, and the state appellate court rejected it, albeit without explanation. Second, on post-conviction review, the state court addressed and rejected Haas’s ineffective-assistance-of-counsel claim, in which he faulted his trial lawyer for failing to present a double-jeopardy defense. The parties dispute which decision we should review. If the state is correct in suggesting that we should focus our attention only on the direct-appeal decision that addressed the double-jeopardy claim proper, then it would get the full benefit of the *Harrington* rule. If Haas is right that his post-conviction ineffective-assistance claim adequately tees up his double-jeopardy claim, then we should engage the reasons the state court gave for rejecting that (those) claim(s). We’ll return to the “which decision” issue shortly.

The Double Jeopardy Clause provides that no person shall be “subject for the same offence to be twice put in jeopardy of life or limb.” U.S. Const. amend. V. When reviewing a potential double jeopardy violation arising from a single prosecution, we start with legislative intent: Did the legislature clearly mean to permit multiple punishments for a given violation? *Garrett v. United States*, 471 U.S. 773, 778 (1985). If it did, that is the end of the matter. If, by contrast, the legislative intent is unclear, we apply the *Blockburger* “same elements” test, which asks if each offense “requires proof of an additional fact which the other does not.” *United States v. Smith*, 532 F.3d 1125, 1128 (11th Cir. 2008) (quoting *Cole v. U.S. Dep’t of Agric.*, 133 F.3d 803, 805 (11th Cir. 1998)); *Blockburger v. United States*, 284 U.S. 299, 304 (1932). If they do not, the defendant’s double-jeopardy rights have been violated.

Relevant here are two arson statutes and another cross-referenced provision. Under Fla. Stat. § 806.01, a person commits first-degree arson of a dwelling if he “willfully and unlawfully, or while in the commission of any felony, by fire or explosion, damages or causes to be damaged . . . [a]ny dwelling, whether occupied or not, or its contents.” Fla. Stat. § 806.01(1)(a). Under Fla. Stat. § 806.031, a person is guilty of arson causing great bodily harm if he “perpetrates any arson that results in great bodily harm, permanent disability, or permanent disfigurement to a firefighter or any other person, regardless of intent or lack of intent to cause such harm.” *Id.* § 806.031(2). That provision continues: “Upon conviction and adjudication of guilt, a person may be sentenced separately, pursuant to s. 775.021(4), for any violation of this section

24-14213

## Opinion of the Court

5

and any arson committed during the same episode.” *Id.* § 806.031(3). The referenced § 775.021(4) codifies *Blockburger*’s double-jeopardy analysis. See *Valdes v. State*, 3 So. 3d 1067, 1070 (Fla. 2009).

For a state-law conviction, the threshold legislative-intent prong of the double-jeopardy analysis requires us to look to state law—and, where necessary, the opinions of state courts. See *Ohio v. Johnson*, 467 U.S. 493, 499 (1984) (“We accept, as we must, the [state] Court’s determination that the [state] Legislature did not intend cumulative punishments . . . .”); see also *Williams v. Singletary*, 78 F.3d 1510, 1515–16 (11th Cir. 1996) (looking to the Florida appellate court opinions to answer the question of legislative intent in the double jeopardy context). At the time of Haas’s conviction, there was one relevant Florida appellate opinion dealing with the application of double jeopardy to the state arson statutes. In *Abbate v. State*, the Florida Fourth District Court of Appeal held that a defendant’s convictions of second-degree arson of a structure (as opposed to first-degree arson of a dwelling here) and arson resulting in great bodily harm violated double jeopardy because second-degree arson of a structure is a lesser-included offense of arson resulting in great bodily harm. 82 So. 3d 886, 888–89 (Fla. 4th Dist. Ct. App. 2011).

We review as a “pure question of law” any possible violation of double jeopardy. *United States v. Thurston*, 362 F.3d 1319, 1322 (11th Cir. 2004) (first citing *United States v. Strickland*, 261 F.3d 1271,

1273 (11th Cir. 2001); and then citing *United States v. Baggett*, 901 F.2d 1546, 1548 (11th Cir. 1990)).

The first question we face: What is the last relevant state-court adjudication on the merits of the double-jeopardy issue? Was it the unreasoned affirmance of the initial state trial court’s ruling on direct appeal, or the reasoned denial issued by the state post-conviction court?<sup>1</sup> This would be a straightforward issue if the claims Haas presented on direct appeal and in his state post-conviction proceedings were identical: We would look to the decision in the state post-conviction court. Here, though, we have the wrinkle already mentioned: Haas argued the “straight” double-jeopardy issue, so to speak—*i.e.*, the one he now asks us to review—only on direct appeal. In state post-conviction proceedings, he argued double jeopardy as an embedded issue within an ineffective-assistance-of-counsel claim.

The parties seem to think the distinction matters, and it may well. Haas insists that we ought to look to the post-conviction’s court discussion of double jeopardy within the context of his ineffective-assistance claim, whereas the state contends that we should apply *Harrington* to the state court’s unreasoned denial of his straight double-jeopardy claim. In support of his position, Haas cites *Wilson*’s language that we must look through to the “last

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<sup>1</sup> Both of these rulings were later affirmed in unreasoned opinions by the state appellate courts, so under *Wilson* we would “look through” to these rulings. 584 U.S. at 125.

24-14213

Opinion of the Court

7

related state court decision that . . . provide[d] a relevant rationale.” 584 U.S. at 125. The state parries with language from circuit precedents in the exhaustion area that demarcate substantive claims as “separate and distinct” from ineffective-assistance claims. *LeCroy v. Sec’y, Fla. Dep’t of Corr.*, 421 F.3d 1237, 1260 n.24 (11th Cir. 2005); see also, e.g., *Bailey v. Nagle*, 172 F.3d 1299, 1304 n.8 (11th Cir. 1999) (“An ineffective-assistance claim is analytically distinct from the substantive claim underlying it.”).

We need not decide this issue here. Even adopting Haas’s stance and looking to the state post-conviction court’s reasoning—and treating that court’s decision as if it had adjudicated the double-jeopardy issue on the merits, rather than as an element of an ineffective-assistance claim—he has failed to overcome his weighty burden of showing that the state post-conviction court’s reasoning was “contrary to, or involved an unreasonable application of, clearly established Federal law.” 28 U.S.C. § 2254(d)(1).

Haas argues that his consecutive sentences for first-degree arson of a dwelling and arson resulting in great bodily harm violate double jeopardy. He says so for two reasons: (1) the arson-causing-great-bodily-harm statute’s cross-reference to the codification of *Blockburger* negates any clear legislative intent to allow stacked sentences; and (2) even if it didn’t, the same provision’s “any arson” language swallows first-degree arson of a dwelling.

In response to these arguments—as embedded in the ineffective-assistance claim—the state post-conviction court cited the

second-degree-arson-resulting-in-great-bodily-harm statute’s provision allowing for separate sentences in finding a clear legislative intent to authorize separate punishments for the two crimes. As the court found a clear legislative intent, it had no need to conduct a *Blockburger* same-elements analysis.

Haas counters that the state post-conviction court failed to analyze this provision in full; it quoted but left unexamined the cross-reference to the separate-sentence provision in Fla. Stat. § 775.021(4). As relevant here, that provision makes explicit that lesser-included offenses do not benefit from the general rule of construction favoring a finding of legislative intent authorizing punishments for separate offenses. Fla. Stat. § 775.021(4) (“The intent of the Legislature is to convict and sentence for each criminal offense committed in the course of one criminal episode or transaction . . . . Exceptions to this rule of construction are: . . . . Offenses which are lesser offenses the statutory elements of which are subsumed by the greater offense.”). So he contends that the best read of relevant state law would require a reviewing court to conduct the *Blockburger* same-elements analysis.

Of course, “it is not the province of a federal habeas court to reexamine state-court determinations of state-law questions.” *Estelle v. McGuire*, 502 U.S. 62, 67–68 (1991). True, in a double-jeopardy case the state-law question—whether Florida’s arson statutes evince a clear legislative intent to authorize separate punishments—is embedded in the federal law. Still AEDPA sharply limits the role of a federal habeas court: “[A]n *unreasonable* application of

24-14213

## Opinion of the Court

9

federal law is different from an *incorrect* application of federal law,” and, accordingly, “a state court must be granted . . . deference and latitude.” *Harrington*, 562 U.S. at 101 (quoting *Williams v. Taylor*, 529 U.S. 362, 410 (2000)) (emphasis in original). And with respect to the threshold legislative-intent prong of a double-jeopardy claim, a federal court is “*bound* to accept the [State] court’s construction of that State’s statutes.” *Missouri v. Hunter*, 459 U.S. 359, 368 (1983) (emphasis added) (citing *O’Brien v. Skinner*, 414 U.S. 524, 531 (1974)).

We cannot conclude that the state court unreasonably applied federal law in concluding that no *Blockburger* analysis was necessary. The statute for arson resulting in great bodily harm could reasonably be interpreted to demonstrate a clear legislative intent in favor of separate sentences. See Fla. Stat. § 806.031(3) (“[A] person *may be sentenced separately*, pursuant to s. 775.021(4), for any violation of this section *and for any arson committed during the same criminal episode.*”) (emphasis added). The only Florida case that petitioners can point to that contradicts this reading, and indeed the only relevant case to address this area of the law, dealt with the relationship between second-degree arson (of any structure) and arson resulting great bodily harm. *Abbate*, 82 So.3d at 886. As first-degree arson of a dwelling is a distinct offense from second-degree arson, it would not be unreasonable to distinguish *Abbate* on this ground alone.

Here, the district court did not err in denying Haas relief on his double-jeopardy claim. Haas has failed to show that either state

10

Opinion of the Court

24-14213

court unreasonably applied clearly established federal law. Accordingly, we affirm.

**AFFIRMED.**