PUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 19-7638

CALVIN F. CURRICA,

Plaintiff − Appellant,

v.

RICHARD MILLER,

Defendant – Appellee.

Appeal from the United States District Court for the District of Maryland, at Greenbelt. Paula Xinis, District Judge. (8:16−cv−03259−PX)

Argued: March 7, 2023 Decided: June 14, 2023

Before GREGORY, Chief Judge, and WYNN and DIAZ, Circuit Judges.

Affirmed by published opinion. Judge Diaz wrote the opinion, in which Chief Judge Gregory and Judge Wynn joined.

ARGUED: Ashley Stewart, GEORGETOWN UNIVERSITY LAW CENTER, Washington, D.C., for Appellant. Andrew John DiMiceli, OFFICE OF THE ATTORNEY GENERAL OF MARYLAND, Baltimore, Maryland, for Appellee. **ON BRIEF:** Erica Hashimoto, Director, Nathan R. Hogan, Student Counsel, Appellate Litigation Program, GEORGETOWN UNIVERSITY LAW CENTER, Washington, D.C., for Appellant. Brian E. Frosh, Attorney General, OFFICE OF THE ATTORNEY GENERAL OF MARYLAND, Baltimore, Maryland, for Appellee.

DIAZ, Circuit Judge:

Calvin Currica appeals the district court's denial of his habeas petition under 28 U.S.C. § 2254. He claims that his guilty plea wasn't voluntary because he didn't know that Maryland's sentencing guidelines were merely advisory. But a Maryland court denied his request for postconviction relief, finding that he understood the terms of his plea agreement, including his maximum sentencing exposure. Below, the district court held that the Maryland court's decision denying Currica postconviction relief was reasonable. We affirm.

I.

This appeal centers around Currica's understanding of his plea terms, so we lay out the relevant procedural history in detail.

A.

After he confessed to the police in 2008, the State of Maryland charged Currica with several crimes, including carjacking, kidnapping, armed robbery, first-degree assault, and first-degree murder.

The prosecutor offered to dismiss all the other charges if Currica pleaded guilty to two counts of carjacking and one count of second-degree murder. In the offer letter, the prosecutor noted, "The maximum potential penalty for these offenses, when added consecutively, is 90 years. The guidelines for these offenses are thirty to fifty-one years." J.A. 314.

Currica's attorney sent him a letter conveying the plea offer:

> After extensive discussions [and] negotiations with the Assistant State's Attorney prosecuting your case, and several discussions between you and I, the State has offered for you to enter a plea of guilty to Second Degree Murder, which carries a maximum penalty of Thirty (30) years and 2 Counts of Carjacking [for which] each carries a maximum penalty of Thirty (30) years incarceration. As we discussed, your sentencing guidelines for these offenses is 20-30 years on the murder and 10-21 years for the carjackings. Overall sentencing guidelines are 30-51.

J.A. 317. The letter also explained the rights Currica would give up by pleading guilty, and further advised him:

> No person can make any promises (beyond the plea agreement) or inducements to you or coerce or threaten you to get you to plead guilty. You must fully understand the terms of the plea agreement and not be under the influence of any drugs, medication, alcohol, or mental condition at the time of the plea that would prevent you from understanding the proceedings.

J.A. 318.

1.

Currica took the deal. His two-page plea agreement stated that he would plead guilty to second-degree murder and two counts of carjacking, that the court would order a presentence investigation, and that the parties could allocute at sentencing. It didn't mention sentencing guidelines. The rest of the agreement laid out the facts of the crimes.

Counsel also jointly submitted a plea memorandum to request a hearing. That memorandum mentioned the guidelines, indicating they provided for "Thirty to Fifty-One Years." J.A. 288.

At the plea hearing, the state court referenced the plea memorandum, including that "the guidelines are 30 to 51 years." J.A. 76. Then the court questioned Currica under oath.

The court first made sure Currica understood that he wasn't "obligated to enter a plea of guilty in this or any case," that he had a right to a trial before a judge or a jury, that he could raise defenses at such a trial, and that a jury would have to agree unanimously that the state proved his guilt beyond a reasonable doubt. J.A. 77–81. The court also ensured that Currica had had adequate time to discuss the plea with his attorney and that he understood he'd be waiving a pretrial hearing and certain appellate rights.

The court turned next to the specific charges to which Currica agreed to plead guilty, explaining the elements and noting the maximum penalty of 30 years for each:

> Q All right. When you are charged with second degree murder, which is what the charge will be changed to, you are liable for a maximum penalty of 30 years in jail or less depending on what I determine, and you can be placed on probation for any suspended sentence that I might impose. In other words, I'm entitled to impose a sentence that would include a component or a part of it that would be suspended. I'm not obligated to do that. You understand that?
>
> A Yes.

J.A. 83. And for the two carjacking charges:

> Q All right. So each of these charges carries the possibility of being put in jail for up to 30 years. Once again, I can impose whatever sentence, including jail time and a period of suspended jail time, if I wish to do so. You understand that?
>
> A Yes.

J.A. 84. Currica also confirmed that no one threatened or coerced him into pleading guilty, that no one told him the court would be more lenient if he pleaded guilty, and that he was entering the plea "freely and voluntarily." J.A. 85.

The prosecution then proffered what it would have attempted to prove at trial. The court accepted Currica's guilty plea, finding that it was "freely given, voluntarily given, and intelligently given." J.A. 93.

2.

After the plea hearing, the state submitted a presentence-investigation report. The report specified a different guidelines range than the plea-offer letter and the plea memorandum counsel filed with the court. Instead of the previously discussed range of 30 to 51 years, the report stated 45 to 70 years.

At the sentencing, Currica's counsel asked the court to "honor" the 30-to-51-year range, since it was "calculated together with the State." J.A. 111. But the state questioned whether the court could "disregard the honest guidelines" in favor of "what was thought to be the guidelines between counsel ahead of time." J.A. 137. The court responded that the "guidelines are descriptive in any event." *Id.*

After more argument from counsel, victim-impact statements, and an apologetic allocution from Currica, the court expressed its intention to keep Currica within "restraint of the authorities of this State for as long as I can reasonably incapacitate you." J.A. 154. The court sentenced Currica to 85 years: 30 for second-degree murder, 30 for one carjacking charge, and 25 for the other, consecutively. J.A. 155.

B.

Currica petitioned the Maryland courts for postconviction relief. In his pro se petition, he argued that the prosecution and the court breached his plea agreement by imposing a sentence above 30 to 51 years. The state opposed Currica's petition.

The state postconviction-relief ("PCR") court appointed a public defender and held a hearing. There, Currica testified that after he spoke with his trial attorney about the plea offer, he believed the court could impose a sentence "[a]nywhere from 30 to 51 years." J.A. 215. He said it "was not explained to [him] before [he] took the plea" that the guidelines were advisory and didn't constrain his sentence. J.A. 216. When the plea court told him it could sentence him to up to 30 years per charge and impose "whatever" sentence, Currica said he thought the court was just observing a formality or referring to probation or a suspended sentence. J.A. 217–19.

The PCR court denied relief, announcing its decision from the bench. The PCR court found that the plea agreement didn't bind the prosecutor or the court to a specific sentence. It also found that the plea court "correctly advised the defendant of . . . not only the elements of the offenses to which he was tendering his plea, but the maximum penalties allowed by law." J.A. 244.

While the PCR court acknowledged that "the [guidelines] range stated in the initial plea memo is different from the [guidelines] range appended to the sentencing matters," it was "clear to any reasonably objective person, that these are ranges only," and that "the court at no time bound itself." J.A. 246. Explaining further: "There is no . . . objective basis for any reasonable person to conclude that the [plea court] was capping a sentence [or] was binding itself to" the guidelines. J.A. 247–48. In fact, the PCR court found that the plea court "made it clear" the guidelines are "advisory only." J.A. 248.

Finally, the PCR court said it "listened carefully" and didn't "accredit the testimony that [Currica] gave me today with respect to his subjective views. I find that he knew . . .

damn well what he was pleading guilty to," and that he "received an immense benefit" from the plea agreement "because he dodged a possible sentence of . . . life plus plus[,] which means you don't get out." *Id.*

Currica appealed the PCR court's decision, but Maryland's Court of Special Appeals (now called the Appellate Court of Maryland) summarily denied leave. And Maryland's highest court denied certiorari.

C.

Currica, again pro se, filed a § 2254 petition in the U.S. District Court for the District of Maryland, raising similar arguments as in the state PCR proceedings. The parties filed briefs and supplemented the record with the plea agreement and orders from the Maryland courts. Then the district court issued its decision, finding a hearing to be unnecessary.

The district court first recounted the PCR court's findings, including that "at sentencing, Currica was told the guidelines were 'advisory only' and the sentencing court could exceed those guidelines, as it ultimately did." *Currica v. Miller*, No. 16-cv-3259, 2019 WL 4392540, at *4 (D. Md. Sept. 13, 2019). The district court agreed with the PCR court that the plea agreement didn't constrain the prosecution's recommendation or the trial court's sentence. *Id.* Finally, the court concluded that the PCR court's holding that Currica was advised of his maximum sentence exposure wasn't incorrect or unreasonable, so § 2254 relief wasn't available. *Id.* at *5. The court also denied Currica a certificate of appealability, but we granted one.

II.

We affirm. While the plea court (and Currica's plea counsel) may have muddied the waters, the substantial deference we owe state courts under the Antiterrorism and Effective Death Penalty Act of 1996 ("AEDPA") forecloses relief.

Under AEDPA, once a state court adjudicates the merits of a request for postconviction relief, federal habeas relief isn't available unless the state-court proceedings:

> (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).

Currica argues that he's entitled to relief under both subsections of § 2254(d). We disagree.

A.

We begin with subsection (d)(2), by which Currica contends that the PCR court's decision was based on an unreasonable finding of fact— that the plea court "made it clear" that the guidelines were advisory. *See* Appellant's Br. at 23.[1]

[1] At oral argument, Currica's counsel also questioned the PCR court's adverse credibility finding, arguing that it wasn't supported by the record. But we decline to consider this new argument. *See Cities4Life, Inc. v. City of Charlotte*, 52 F.4th 576, 581 (4th Cir. 2022). And even if Currica had timely raised it, we're poorly situated to second-guess the PCR court's credibility determinations. *See Elmore v. Ozmint*, 661 F.3d 783,

AEDPA mandates that "a determination of a factual issue made by a State court shall be presumed to be correct," such that the petitioner bears "the burden of rebutting the presumption of correctness by clear and convincing evidence." 28 U.S.C. § 2254(e)(1). Even if a state court gets a fact wrong, its decision "will not be overturned . . . unless objectively unreasonable in light of the evidence presented in the state-court proceeding." *Miller-El v. Cockrell*, 537 U.S. 322, 340 (2003). In other words, it's not enough for a finding to be debatable or even wrong—it must be "unreasonable" to open the door to habeas relief. *See Wood v. Allen*, 558 U.S. 290, 303 (2010).

The plea court never said the guidelines were advisory, so the PCR court's finding (that the plea court "made it clear" the guidelines were advisory) might be debatable. But AEDPA demands more. The PCR court's finding isn't objectively unreasonable because the plea court correctly explained that it could sentence Currica to 30 years on each charge, which would exceed the guidelines range. *See Burt v. Titlow*, 571 U.S. 12, 18 (2013) ("[A] state-court factual determination is not unreasonable merely because the federal habeas court would have reached a different conclusion in the first instance." (quoting *Wood*, 558 U.S. at 301)).

In any event, AEDPA forecloses habeas relief unless the PCR court's decision was "based on" an erroneous finding, 28 U.S.C. § 2254(d)(2), and Currica doesn't make that showing. Say the PCR court never found that the plea court made the guidelines' advisory

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850 (4th Cir. 2011) (noting that AEDPA requires us to be "especially deferential to the state PCR court's findings on witness credibility," which we won't overturn absent error that is "stark and clear" (cleaned up)).

nature "clear." We'd still be left with the PCR court's other findings, including that (1) the plea agreement didn't promise a guidelines sentence, (2) the plea court ensured Currica understood his maximum sentencing exposure, and (3) Currica's testimony about his subjective belief wasn't credible. Against this backdrop, Currica hasn't shown that the finding he challenges moved the needle. So subsection (d)(2) offers him no relief.

B.

Turning to Currica's subsection (d)(1) arguments, our first step "is to identify the 'clearly established Federal law, as determined by the Supreme Court of the United States' that governs the habeas petitioner's claims." *Marshall v. Rodgers*, 569 U.S. 58, 61 (2013). We look to "only the holdings, as opposed to the dicta," of the governing Supreme Court decisions. *Woods v. Donald*, 575 U.S. 312, 316 (2015) (per curiam) (cleaned up).

We then "train [our] attention on the particular reasons" the PCR court gave in denying relief. *Wilson v. Sellers*, 138 S. Ct. 1188, 1191–92 (2018) (cleaned up). Since Maryland's appellate courts summarily denied relief, we "'look through' the unexplained decision to the last related state-court decision that does provide a relevant rationale." *Id.* at 1192. This points us back to the PCR court's oral decision from the bench.

Currica faces a high hurdle in showing that the PCR court's decision was contrary to, or unreasonably applied, a Supreme Court holding. *See Woods*, 575 U.S. at 316 (noting that AEDPA's standard is "intentionally difficult to meet" (cleaned up)). He must show that the PCR court's decision was "so lacking in justification that there was an error well understood and comprehended in existing law beyond any possibility for fairminded disagreement." *Id.* (cleaned up).

The decision must be "'objectively unreasonable,' not merely wrong; even 'clear error' will not suffice." *White v. Woodall*, 572 U.S. 415, 419 (2014). Put bluntly, subsection (d)(1) corrects only the most "extreme malfunctions." *Woods*, 575 U.S. at 316.

As we explain, the PCR court's decision wasn't "contrary to," or an "unreasonable application of," Supreme Court precedent. 28 U.S.C. § 2254(d)(1).

1.

The PCR court's decision wasn't "contrary to" Supreme Court precedent because it didn't "arrive[] at a result different from" a Supreme Court case with "materially indistinguishable" facts. *Early v. Packer*, 537 U.S. 3, 8 (2002) (per curiam) (cleaned up).

To persuade us otherwise, Currica points to *Boykin v. Alabama*, 395 U.S. 238 (1969). *Boykin* involved a state-court guilty plea in which, "[s]o far as the record shows, the judge asked no questions of petitioner concerning his plea, and petitioner did not address the court." *Id.* at 239.

The Court held that "[i]t was error, plain on the face of the record, for the trial judge to accept petitioner's guilty plea without an affirmative showing that it was intelligent and voluntary." *Id.* at 242. A silent record can't support a guilty plea, which waives important constitutional rights. *Id.* at 243. Rather, a criminal court must exercise "the utmost solicitude . . . to make sure [the defendant] has a full understanding of what the plea connotes and of its consequence. When the judge discharges that function, he leaves a record adequate for any review that may be later sought." *Id.* at 243–44.

The next year, *Brady v. United States* confirmed *Boykin*'s "requirement that the record must affirmatively disclose that a defendant who pleaded guilty entered his plea

understandingly and voluntarily." 397 U.S. 742, 747 n.4 (1970). *Brady* affirmed the denial of habeas relief for a federal prisoner who claimed his guilty plea wasn't voluntary because he feared he could receive the death penalty if he went to trial. *Id.* at 746–47. Brady also claimed his plea wasn't intelligent, because nine years after he entered it, the Court held that the death penalty wasn't available to a defendant who went to trial under the circumstances of his case. *Id.* at 756.

The Court noted that a pleading defendant must have "sufficient awareness of the relevant circumstances and likely consequences" of the plea. *Id.* at 748. But a plea can be intelligent and voluntary even "if the defendant did not correctly assess every relevant factor entering into his decision." *Id.* at 757. In fact, habeas relief isn't available for a defendant simply because he "discovers long after the plea has been accepted that his calculus misapprehended . . . the likely penalties attached to alternative courses of action." *Id.* And Brady's plea record showed that the district court ensured he understood his plea and that he entered it "voluntarily, without persuasion [or] coercion of any kind." *Id.* at 743 n.2. The Court held that this was sufficient. *Id.* at 755.

Currica argues that the PCR court's decision was contrary to *Boykin* and *Brady* because "[n]othing in the record affirms that Mr. Currica was told he could receive a sentence above 51 years." Appellant's Br. at 28. But *Boykin* and *Brady* didn't "confront the specific question presented by" Currica's petition—whether his plea was voluntary when no one told him the state sentencing guidelines weren't mandatory. *Woods*, 575 U.S. at 317 (cleaned up). And Currica's situation isn't "materially indistinguishable" from

Boykin's or *Brady*'s facts. *Early*, 537 U.S. at 8. So subsection (d)(1)'s "contrary to" prong can't help him.

2.

Nor was the PCR court's decision an "unreasonable application" of principles announced by the Supreme Court. When there's no on-point Supreme Court holding to clarify "the precise contours" of a right, "state courts enjoy broad discretion in their adjudication of a prisoner's claims." *Woods*, 575 U.S. at 318 (cleaned up). If "a fairminded jurist could conclude" that the state court's decision fits the contours of the Supreme Court's governing principles, subsection (d)(1) affords no relief. *Id.*

We acknowledge that the advisory or mandatory nature of sentencing guidelines could affect a defendant's maximum sentencing exposure. And this distinction could influence whether a defendant's plea is intelligent and voluntary.

But here, the PCR court concluded that Currica couldn't reasonably believe that the guidelines were mandatory or that he was entitled to a sentence between 30 and 51 years. That's because the plea court correctly advised him that each of his charges carried a possible sentence of 30 years. So this isn't a case in which Currica was clueless about the endpoints of his sentencing exposure.[2] The plea court created a record about the

[2] The out-of-circuit cases Currica cites in support of his argument are distinguishable. *See, e.g.*, *Jamison v. Klem*, 544 F.3d 266, 276 (3d Cir. 2008) (defendant was never informed of a mandatory statutory minimum, even when he was correctly told the statutory maximum); *Hanson v. Phillips*, 442 F.3d 789, 800 (2d Cir. 2006) (sentencing court's "confusing mixture of questions and statements" created too messy a record to determine whether the petitioner was pleading voluntarily); *Hart v. Marion Corr. Inst.*, 927 F.2d 256, 256 (6th Cir. 1991) (plea court erroneously told defendant the maximum sentence

voluntariness of Currica's plea, as *Boykin* and *Brady* require. So the PCR court didn't apply *Boykin* or *Brady*'s principles incorrectly, much less unreasonably.

At bottom, Currica's petition relies on an unannounced rule that would require plea courts to probe the minds of defendants in search of myths to bust. *Boykin* and *Brady* don't go so far. And even if such a requirement were "the logical next step" after *Boykin* and *Brady*, "there are reasonable arguments on both sides," and that's "all [the state] needs to prevail in this AEDPA case." *White*, 572 U.S. at 427.

AFFIRMED

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he could serve was 15 years when it was 75); *Lewellyn v. Wainwright*, 593 F.2d 15, 15 (5th Cir. 1979) (per curiam) (defendant wasn't informed of the maximum sentence).