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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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KNOWLES, WARDEN *v.* MIRZAYANCECERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR
THE NINTH CIRCUIT

No. 07–1315. Argued January 13, 2009—Decided March 24, 2009

Respondent Mirzayance entered pleas of not guilty and not guilty by reason of insanity (NGI) at his state-court murder trial. During the guilt phase, he sought to avoid a conviction for first-degree murder and instead obtain a second-degree murder verdict by presenting medical testimony that he was insane at the time of the crime and was, therefore, incapable of the necessary premeditation or deliberation. The jury nevertheless convicted him of first-degree murder. After the trial's NGI phase was scheduled, Mirzayance accepted his counsel's recommendation to abandon the insanity plea. Counsel believed that a defense verdict was unlikely because the jury had just rejected medical testimony similar to that which would be presented to establish the NGI defense. Moreover, although counsel had planned to supplement the medical evidence with testimony by Mirzayance's parents as to their son's mental illness, the parents refused to testify at the last moment. Following his conviction, Mirzayance alleged in state postconviction proceedings that his attorney's recommendation to withdraw the NGI plea constituted ineffective assistance of counsel under *Strickland v. Washington*, 466 U. S. 668. The trial court denied relief, and the California Court of Appeal affirmed.

Mirzayance then applied for federal habeas relief, which the District Court denied. The Ninth Circuit reversed, ordering an evidentiary hearing on counsel's recommendation to withdraw the NGI plea. During the hearing, the Magistrate Judge made extensive factfindings, including, *inter alia*, that the NGI phase medical evidence essentially would have duplicated the evidence the jury rejected in the guilt phase; that counsel doubted the likelihood of prevailing on the NGI claim because the jury's finding of first-degree murder as a practical matter would cripple Mirzayance's chances of convincing

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the jury that he nevertheless was incapable of understanding the nature and quality of his act and of distinguishing right from wrong; that Mirzayance's parents were not simply reluctant, but had effectively refused, to testify; that counsel had made a carefully reasoned decision not to proceed with the NGI plea after weighing his options and discussing the matter with experienced co-counsel; but that counsel's performance was nevertheless deficient because Mirzayance had "nothing to lose" by going forward with the NGI phase of the trial. The Magistrate Judge also found prejudice and recommended habeas relief. The District Court accepted the recommendation and granted the writ. The Court of Appeals affirmed, ruling, among other things, that counsel's performance had been deficient because Mirzayance's parents had not refused, but had merely expressed reluctance to testify, and because competent counsel would have attempted to persuade them to testify, which Mirzayance's counsel admittedly did not. The court essentially concluded that competent counsel would have pursued the insanity defense because counsel had nothing to lose by putting on the only defense available. In addition, the court found prejudice because, in the court's view, there was a reasonable probability the jury would have found Mirzayance insane had counsel pursued the NGI phase. The Ninth Circuit concluded that federal habeas relief was authorized under 28 U. S. C. §2254(d)(1) because the California Court of Appeal had "unreasonabl[y] appli[ed] clearly established Federal law."

Held: Whether the state-court decision is reviewed under §2254(d)(1)'s standard or *de novo*, Mirzayance has failed to establish that his counsel's performance was ineffective. Pp. 8–16.

(a) The State Court of Appeal's denial of Mirzayance's ineffective-assistance claim did not violate clearly established federal law. The Ninth Circuit reached a contrary result based largely on its application of an improper review standard—it blamed counsel for abandoning the NGI claim because there was "nothing to lose" by pursuing it. But it is not "an unreasonable application of clearly established Federal law" for a state court to decline to apply a specific legal rule that has not been squarely established by this Court. See, *e.g.*, *Wright v. Van Patten*, 552 U. S. ___, ___. Absent anything akin to the "nothing to lose" standard in this Court's precedent, habeas relief could have been granted under §2254(d)(1) only if the state-court decision in this case had unreasonably applied *Strickland*'s more general standard for ineffective-assistance claims, whereby a defendant must show both deficient performance by counsel and prejudice, 466 U. S., at 687. The question "is not whether a federal court believes the state court's determination" under *Strickland* "was incorrect but whether [it] was unreasonable—a substantially higher threshold." *Schriro v.*

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Landrigan, 550 U. S. 465, 473. And, because *Strickland*'s is a general standard, a state court has even more latitude to reasonably determine that a defendant has not satisfied that standard. Under the doubly deferential judicial review that applies to a *Strickland* claim evaluated under the §2254(d)(1) standard, Mirzayance's ineffective-assistance claim fails. It was not unreasonable for the state court to conclude that counsel's performance was not deficient when he counseled Mirzayance to abandon a claim that stood almost no chance of success. Pp. 8–11.

(b) Even if Mirzayance's ineffective-assistance claim were eligible for *de novo* review, it would still fail because he has not shown ineffective assistance at all. Mirzayance can establish neither the deficient performance nor the prejudice required by *Strickland*. As to performance, he has not shown "that counsel's representation fell below an objective standard of reasonableness." 466 U. S., at 687–688. Rather, counsel merely recommended the withdrawal of what he reasonably believed was a claim doomed because similar medical testimony had already been rejected and the parents' testimony, which he believed to be his strongest evidence, would not be available. The Ninth Circuit's position that competent counsel might have persuaded the reluctant parents to testify is in tension with the Magistrate Judge's contrary findings and applies a more demanding standard than *Strickland* prescribes. The failure to show ineffective assistance is also confirmed by the Magistrate Judge's finding that counsel's decision was essentially an informed one "made after thorough investigation of law and facts relevant to plausible options," and was therefore "virtually unchallengeable." *Id.*, at 690. The Ninth Circuit's insistence that counsel was required to assert the only defense available, even one almost certain to lose, is not supported by any "prevailing professional norms" of which the Court is aware. See *id.*, at 688. Nor has Mirzayance demonstrated that he suffered prejudice, which requires a showing of "a reasonable probability that, but for counsel's unprofessional errors, the result of the proceeding would have been different." See *id.*, at 694. In fact, it was highly improbable that the jury, having just rejected testimony about Mirzayance's mental condition in the guilt phase, would have reached a different result based on similar evidence at the NGI phase. Pp. 11–16.

Reversed and remanded.

THOMAS, J., delivered the opinion of the Court, in which ROBERTS, C. J., and STEVENS, KENNEDY, BREYER, and ALITO, JJ., joined, and in which SCALIA, SOUTER, and GINSBURG, JJ., joined as to all but Part II.