

(ORDER LIST: 565 U.S.)

MONDAY, DECEMBER 12, 2011

ORDERS IN PENDING CASES

11M47 KAETZ, WILLIAM F. V. MARK, JONATHAN

11M48 LEWIS, MARY L. V. COUNTRYWIDE-HOME LOANS, INC.

11M49 LEYJA, CHRISTOPHER V. PARKER, WARDEN

The motions to direct the Clerk to file petitions for writs of certiorari out of time are denied.

11M50 C. D. V. UNITED STATES

The motion for leave to file a petition for a writ of certiorari under seal with redacted copies for the public record is denied.

11M51 SAN CARLOS APACHE TRIBE V. UNITED STATES

The motion to direct the Clerk to file a petition for a writ of certiorari out of time is denied.

10-1016 COLEMAN, DANIEL V. COURT OF APPEALS OF MD, ET AL.

The motion of Senator Tom Harkin, et al. for leave to participate in oral argument as *amici curiae* and for divided argument is denied.

10-10591 CANNON, TYRRALL F. V. CALIFORNIA

The motion of petitioner for reconsideration of order denying leave to proceed *in forma pauperis* is denied.

11-336 CORBOY, JOHN M., ET AL. V. LOUIE, ATT'Y GEN. OF HI, ET AL.

The Solicitor General is invited to file a brief in this case expressing the views of the United States.

11-338) DECKER, DOUG, ET AL. V. NORTHWEST ENVTL. DEFENSE CENTER
)
11-347) GEORGIA-PACIFIC WEST, ET AL. V. NORTHWEST ENVTL. DEFENSE CENTER

The Solicitor General is invited to file a brief in these cases expressing the views of the United States. Justice Breyer took no part in the consideration or decision of these petitions.

11-393) NAT. FED'N INDEP. BUSINESS V. SEBELIUS, SEC. OF H&HS, ET AL.
)
11-400) FLORIDA, ET AL. V. DEPT. OF H&HS, ET AL.

The motion of Freedom Watch for leave to intervene is denied.

CERTIORARI GRANTED

11-166 RADLAX GATEWAY HOTEL, ET AL. V. AMALGAMATED BANK

The petition for a writ of certiorari is granted.

11-182 ARIZONA, ET AL. V. UNITED STATES

The petition for a writ of certiorari is granted. Justice Kagan took no part in the consideration or decision of this petition.

11-246) MATCH-E-BE-NASH-SHE-WISH BAND V. PATCHAK, DAVID, ET AL.
)
11-247) SALAZAR, SEC. OF INTERIOR V. PATCHAK, DAVID, ET AL.

The petitions for writs of certiorari are granted. The cases are consolidated and a total of one hour is allotted for oral argument.

CERTIORARI DENIED

10-1267 McFADDEN, RONALD J. V. ALABAMA

10-10525 CASTILLO-PERALES, JOEL V. HOLDER, ATT'Y GEN., ET AL.

10-10813 HOTALING, JOHN C. V. UNITED STATES

10-11172 BUTLER, SKILAR W. V. UNITED STATES

11-164 HARLEY, WANDA J. V. DONAHOE, POSTMASTER GEN.

11-339 SEIDL, LAURA V. AMERICAN CENTURY CO., ET AL.

11-423 MIDDLEBROOKS, LILLIE M. V. GODWIN CORPORATION, ET AL.
 11-426 PIETRANGELO, JAMES E. V. SANDUSKY LIBRARY, ET AL.
 11-428 CAMPBELL, RICHARD E. V. KOCHER, ROBIN M.
 11-429 CROMWELL, CHESTER E. V. UNITED STEELWORKERS OF AMERICA
 11-440 SCHUPAK GROUP, INC. V. TRAVELERS CASUALTY AND SURETY
 11-444 BLANKENSHIP, FRANK V. METROPOLITAN LIFE INSURANCE CO.
 11-448 FAYER, ALEX V. VAUGHN, ARTHUR, ET AL.
 11-455 VANDEVERE, DYER L., ET AL. V. LLOYD, DENBY
 11-463 ANDERSON, DOLORES F., ET AL. V. NAT. HERITAGE FOUND.
 11-464 STOCK, DONALD R. V. MONTANA
 11-471 GOLDEN GATE PHARMACY, ET AL. V. PFIZER, INC., ET AL.
 11-472 LIN, MANHUA M. V. ROHM AND HAAS COMPANY
 11-477 ZELLS, LOIS V. SEBELIUS, SEC. OF H&HS
 11-479 SHAGHIL, TARIQUE M. V. HOLDER, ATT'Y GEN.
 11-489 FANG, ZE F. V. HOLDER, ATT'Y GEN.
 11-490 DIXON, JOSEPH V. HENNEPIN CTY. HUMAN SVCS. DEPT.
 11-494 KINSEL, JOHN V. CAIN, WARDEN
 11-504 JOSEPH, JOEL D. V. CUNEO LAW GROUP, P.C., ET AL.
 11-520 KOELLER, RUSSELL, ET AL. V. KANSAS CITY SO. RAILWAY, ET AL.
 11-521 MALANEY, MICHAEL, ET AL. V. UAL CORP., ET AL.
 11-524 WATCHEL, BONNIE K. V. SEC, ET AL.
 11-528 DEI, STEVE V. TUMARA FOOD MARK, INC.
 11-537 VIEWCREST INVESTMENTS, LLC V. OREGON
 11-545 THOMAS, KENNETH J. V. ISTAR FINANCIAL, INC., ET AL.
 11-574 SCZYGELSKI, DOUGLAS V. U.S. CUSTOMS AND BORDER PROT.
 11-583 OLVERA, ABELINO V. UNITED STATES
 11-5144 ROBERTSON, MARK V. TEXAS
 11-5175 GILLET, ROGER L. V. MISSISSIPPI

11-5566 HAYES, KENNETH V. NEW YORK
11-5735 RAMIREZ-ARREOLA, JOSE H. V. UNITED STATES
11-5863 WEST, JEREMIAH V. UNITED STATES
11-6178 SALTOU, DON R. V. UNITED STATES
11-6229 VARELA-CIAS, RAMON V. UNITED STATES
11-6470 TIERNEY, MICHAEL V. ESPINADA, WARDEN, ET AL.
11-6732 ALAM, MANSOOR V. HSBC BANK USA
11-6733 ALSTON, MARION V. ALLEN, WARDEN
11-6754 HAYGOOD, DONNA V. PAULDING COUNTY, GA, ET AL.
11-6762 BURNS, BRANDON J. V. MONTANA
11-6763 ANDIKA, ERIC G. V. THALER, DIR., TX DCJ
11-6768 MITCHELL, HENRY M. V. CALIFORNIA
11-6773 COLEMAN, DERRICK D. V. CURTIN, WARDEN
11-6775 DYDZAK, DANIEL D. V. USCA 9
11-6781 ANDERSON, BRETT A. V. LUND, SUPT., CLARINDA
11-6785 WATSON, CHRISTOPHER M. V. TEXAS
11-6786 WU, MIN V. HU, ALLAN YUNLING
11-6800 DRIVER, PAUL L. V. LANDERS, JEN, ET AL.
11-6812 RIVAS, GEORGE V. THALER, DIR., TX DCJ
11-6823 ARCEO, GABRIEL J., ET AL. V. CALIFORNIA
11-6835 CUNNINGHAM, BRADLY V. OREGON
11-6848 BRADDOCK, DERRICK L. V. RAPELJE, WARDEN
11-6849 AVILEZ, OSCAR V. FLORIDA
11-6850 BUTLER, TIMOTHY N. V. FL DOC
11-6852 BASSETT, CRAIG V. TUCKER, SEC., FL DOC, ET AL.
11-6908 WILLIAMS, CHARLES D. V. MARTEL, WARDEN, ET AL.
11-6922 BROWN, BRIAN L. V. NARVAIZ, DON
11-6925 PHILLIPS, JOYCE R. V. ASTRUE, COMM'R, SOCIAL SEC.

11-6933 PLUMMER, MILTON D. V. McDANIEL, WARDEN, ET AL.

11-6941 SHUE, JERRY W. V. SISTO, WARDEN

11-6943 ROBIDOUX, JACQUES V. MURPHY, ACTING SUPT., OLD COLONY

11-6945 MILLER, TONY V. PERRY, WARDEN

11-6946 BROWN, BRIAN L. V. FEDERAL BUREAU OF PRISONS

11-6949 BUCHANAN, ANTOINE C. V. NOOTH, SUPT., SNAKE RIVER

11-6950 BERRY, DWAYNE V. RIVARD, WARDEN

11-6975 WESTBROOK, DANNY A. V. MISSISSIPPI

11-6995 JOHN-CHARLES, CURTIS M. V. CALIFORNIA

11-7006 CANO, RUBEN A. V. CASKEY, ALTON D., ET AL.

11-7019 RYBURN, THOMAS V. V. RAMOS, WARDEN

11-7058 ROGERS, JAMES H. V. KELLER, SEC., NC DOC

11-7073 THOMAS, HANS V. LUDWICK, WARDEN

11-7122 WAYMER, TROY V. BODISON, WARDEN

11-7126 TRAVIS, MCKINDLEY V. CLARKE, DIR., VA DOC

11-7156 GARZA, CARLOS V. HUDSON, T. SCOTT, ET AL.

11-7167 WANKE, RICHARD E. V. ILLINOIS

11-7181 SIMMONS, HENRY L. V. UNITED STATES

11-7202 PAULSON, ZORANDA V. NEW JERSEY

11-7215 CLEVELAND, KEVIN V. UNITED STATES

11-7224 GROSS, FREDERICK V. UNITED STATES

11-7228 GONZALEZ, LUIS V. UNITED STATES

11-7239 CANDRICK, KATINA R. V. UNITED STATES

11-7240 CAVAZOS-REYES, DANIEL V. UNITED STATES

11-7253 LEYVA-OROZCO, JORGE V. UNITED STATES

11-7254 JOHNSON, ERIC L. V. UNITED STATES

11-7256 WATERS, GEARY W. V. UNITED STATES

11-7258 BARRETT, JAMAR A. V. PENNSYLVANIA

11-7259 BOLEN, JOHN T. V. UNITED STATES
11-7260 BRANON, MARK D. V. UNITED STATES
11-7261 ADAMS, TIMOTHY V. UNITED STATES
11-7266 PARKS, ROBERT C. V. UNITED STATES
11-7267 DENHAM, ANTHONY W. V. UNITED STATES
11-7268 CUATANTE-CUATANTE, GUASIMO V. UNITED STATES
11-7269 COBOS-CHACHAS, NICOLAS V. UNITED STATES
11-7272 DIAZ, CARLOS V. UNITED STATES
11-7278 LUNA, PASCUAL V. UNITED STATES
11-7279 TOLER, CHARLES V. UNITED STATES
11-7281 ROMINES, CLINT D. V. UNITED STATES
11-7283 SCROGGINS, CHRISTOPHER J. V. UNITED STATES
11-7288 D'AGOSTINO, STEVEN V. CECOM RDEC
11-7289 EZE, KINGSLEY T. V. UNITED STATES
11-7290 EASON, LARRY D. V. UNITED STATES
11-7291 CEGLEDI, CARLOS V. UNITED STATES
11-7292 BAPTISTE, YONEL J. V. UNITED STATES
11-7296 STURDIVANT, TYRONE V. UNITED STATES
11-7300 KELLUM, TERRY L. V. UNITED STATES
11-7302 JACKSON, VAN V. UNITED STATES
11-7304 REID, TRON T. V. UNITED STATES
11-7308 TURNER, MATTHEW A. V. UNITED STATES
11-7315 DANDOR, DANIEL V. WARRREN, ADM'R, NJ, ET AL.
11-7318 LECCO, GEORGE M. V. UNITED STATES
11-7321 EATON, CLIFFORD S. V. UNITED STATES
11-7322 DRAUGHN, JOHNNY V. UNITED STATES
11-7323 MORGAN, JUNIOUS C. V. UNITED STATES

11-7329 DAVIS, TYRONE R. V. UNITED STATES

The petitions for writs of certiorari are denied.

11-277 OHIO V. D. B.

The motion of respondent for leave to proceed *in forma pauperis* is granted. The petition for a writ of certiorari is denied.

11-434 MORTENSEN, STEWART V. BROWN, ROBERT A., ET AL.

The motion of ACA International for leave to file a brief as *amicus curiae* is granted. The petition for a writ of certiorari is denied.

11-436 KENNIASTY, FRANK W. V. BIONETICS CORP.

The motion of respondent for attorney's fees pursuant to Rule 42.2 is denied. The petition for a writ of certiorari is denied.

11-575 CARSON, JOSEPH P. V. U.S. OFFICE OF SPECIAL COUNSEL

The motion of Lori A. Saxon, et al. for leave to file a brief as *amici curiae* is granted. The petition for a writ of certiorari is denied.

11-6783 ASSA'AD-FALTAS, MARIE V. GIESE, BARNEY, ET AL.

11-6814 ABULKHAIR, ASSEM A. V. BANKS, REUBEN

The motions of petitioners for leave to proceed *in forma pauperis* are denied, and the petitions for writs of certiorari are dismissed. See Rule 39.8.

11-7249 JACKSON, FREDERICK E. V. UNITED STATES

The petition for a writ of certiorari is denied. Justice Sotomayor took no part in the consideration or decision of this petition.

11-7265 PRINCE, JUDAH V. UNITED STATES

The petition for a writ of certiorari is denied. Justice Kagan took no part in the consideration or decision of this petition.

HABEAS CORPUS DENIED

11-7515 IN RE REGINALD D. BLUNT

The petition for a writ of habeas corpus is denied.

MANDAMUS DENIED

11-6788 IN RE JUDITH A. DECKER-WEGENER

The petition for a writ of mandamus and/or prohibition is denied.

REHEARINGS DENIED

10-1495 SAMMARCO, DARLENE V. LUDEMAN, CAL, ET AL.

10-10236 McDERMOTT, GEORGE E. V. MACFADYEN, KENNETH J., ET AL.

10-10309 McCREARY, PAUL T. V. MALONE, JOANN, ET AL.

10-10406 POWELL, MATHEW L. V. CATE, SEC., CA DOC

10-10648 SALERNO, DENNIS M. V. MICHIGAN

10-10662 PLATTS, JAMES C. V. UNITED STATES

10-10696 SPAN, TOMMY V. BARDERS, GARY S., ET AL.

10-10740 PETERKA, DANIEL J. V. TUCKER, SEC., FL DOC

10-10817 MAHONEY, STEVE A. V. HAMMOND, STEVE, ET AL.

10-10876 THOMPSON, CHRISTOPHER B. V. DITTMAN, WARDEN

10-10889 KIM, EUN S. V. DONAHOE, POSTMASTER GEN., ET AL.

10-10957 SHERROD, MARTEZ L. V. UNITED STATES

10-11080 GARAY, CARLOS V. DEPT. OF MANAGEMENT SERVICES

10-11098 McCREARY, PAUL V. SKOLNIK, HOWARD, ET AL.

10-11188 MOSLEY, MARVIN V. ILLINOIS

11-28 MALCOLM, BERNICE V. HONEOYE FALLS LIMA CENTRAL SCH.

11-203 POLES, ROBERT E. V. SIKOWITZ, MARCIA J.

11-5017 LOSEE, KARL G. V. GARDEN, RICHARD, ET AL.

11-5029 BUFFINGTON, SETH D. V. THALER, DIR., TX DCJ

11-5063 BENOIT, ROBERT E. V. WASHINGTON

11-5300 DOBRIC, MILADIN V. BARON, DAVID J.

11-5331 BROWN, DONNA V. CLEVELAND SCHOOL DISTRICT

11-5397 HARRIS, JOHN R. V. UPTON, WARDEN

11-5398 IN RE KEVIN D. LOGGINS

11-5528 DARVIE, JOSEPH V. COUNTRYMAN, M., ET AL.

11-5575 VALENCIA, DANIEL V. CATE, SEC., CA DOC

11-5645 STURDZA, ELENA V. UNITED ARAB EMIRATES, ET AL.

11-5659 RIETHMILLER, ANNAMARIE V. FABISIAK, DANUTA, ET AL.

11-5708 MESSINA, DONALD V. MARSHALL, MICHAEL S., ET AL.

11-5771 McCOY, RICO R. V. THOMAS, INTERIM COMM'R, AL DOC

11-5818 PRESSLEY, LaVON S. V. CAROMONT HEALTH, INC.

11-5852 HAMILTON, FAITH H. V. UNITED STATES

11-6038 CARTER, JESSE L. V. CAMPBELL, HUGH K.

11-6048 SMITH, FRANKIE L. V. UNITED STATES

11-6116 SINGLETON, MICHAEL A. V. TEN UNIDENTIFIED U.S. MARSHALS

11-6121 ASH, RODNEY E. V. NISH, JOSEPH, ET AL.

The petitions for rehearing are denied.

11-5101 KEISLING, WILLIAM V. RENN, RICHARD K., ET AL.

The petition for rehearing is denied. The Chief Justice took no part in the consideration or decision of this petition.

11-5663 SAMUEL, ALEXANDER V. BLOOMBERG, MAYOR

The petition for rehearing is denied. Justice Sotomayor took no part in the consideration or decision of this petition.

Per Curiam

SUPREME COURT OF THE UNITED STATES**MARCUS HARDY, WARDEN v. IRVING L. CROSS****ON PETITION FOR WRIT OF CERTIORARI TO THE UNITED
STATES COURT OF APPEALS FOR THE SEVENTH CIRCUIT**

No. 11–74. Decided December 12, 2011

PER CURIAM.

The Antiterrorism and Effective Death Penalty Act of 1996 (AEDPA), 28 U. S. C. §2254, “imposes a highly deferential standard for evaluating state-court rulings and demands that state-court decisions be given the benefit of the doubt.” *Felkner v. Jackson*, 562 U. S. ___, ___ (2011) (*per curiam*) (slip op., at 4) (internal quotation marks omitted). In this case, the Court of Appeals departed from this standard, and we therefore grant certiorari and reverse.

Irving Cross was tried for kidnaping and sexually assaulting A. S. at knifepoint. Cross claimed that A. S. had consented to sex in exchange for money and drugs. Despite her avowed fear of taking the stand, A. S. testified as the State’s primary witness at Cross’ trial in November 1999 and was cross-examined by Cross’ attorney. According to the trial judge, A. S.’s testimony was halting. The jury found Cross not guilty of kidnaping but was unable to reach a verdict on the sexual assault charges, and the trial judge declared a mistrial. The State decided to retry Cross on those counts, and the retrial was scheduled for March 29, 2000.

On March 20, 2000, the prosecutor informed the trial judge that A. S. could not be located. A week later, on March 28, the State moved to have A. S. declared unavailable and to introduce her prior testimony at the second trial.

The State represented that A. S. had said after the first trial that she was willing to testify at the retrial. The

Per Curiam

State said that it had remained in “constant contact” with A. S. and her mother and that “[e]very indication” had been that A. S., “though extremely frightened, would be willing to again come to court and testify.” Record, Exh. J, p. 111 (hereinafter Exh. J). On March 3, however, A. S.’s mother and brother told the State’s investigator that they did not know where she was, and A. S.’s mother reported that A. S. was “very fearful and very concerned” about testifying again. Record, Exh. K, p. E–9 (hereinafter Exh. K); *id.*, at E–14. On March 9 or 10, the investigator interviewed A. S.’s father, who also had “no idea where [A. S.] was.” *Id.*, at E–12. The father’s only suggestion was to refer the investigator back to the mother.

On March 10, the State learned from A. S.’s mother that A. S. had run away from home the day before and had not returned.* Exh. J, at 111. Thereafter, “efforts began by members of the Cook County State’s Attorney’s Office and by law enforcement personnel to locate” A. S. *Id.*, at 112. The State averred that its efforts included the following:

“Constant personal visits to the home of [A. S.] and her mother, at all hours of the day and night. This is where the victim has lived since the sexual assault occurred.

“Personal visits to the home of [A. S.’s] father. This is where the victim lived when the sexual assault occurred.

“Personal conversations, in English and in Spanish, with the victim’s mother, father, and other family members.

*The State’s motion does not mention the investigator’s March 3 visit with A. S.’s mother and brother, and the record in this case does not make entirely clear when A. S. disappeared and when the State’s attorney actually became aware of this fact. In any event, the parties do not dispute the facts in this case regarding the State’s efforts to locate A. S. See App. to Pet. for Cert. 17a.

Per Curiam

“Telephone calls, in English and in Spanish, to the victim’s mother, father, and other family members.

“Checks at the Office of the Medical Examiner of Cook County.

“Checks at local hospitals.

“Checks at the Cook County Department of Corrections.

“Check at the victim’s school.

“Check with the family of an old boyfriend of the victim.

“Check with the Illinois Secretary of State’s Office.

“[Department of] Public [A]id check.” *Id.*, at 112–113.

The State also inquired at the Department of Public Health, the morgue, the Cook County Jail, the Illinois Department of Corrections, the Immigration Department, and the post office. See Exh. K, at E–14 to E–17, E–21; App. to Pet. for Cert. 18a. The State’s investigator was assisted in the search by a police detective and a victim’s advocate. The detective visited A. S.’s father’s home once and went to A. S.’s mother’s home—A. S.’s last-known residence—on numerous occasions, approximately once every three days, at different hours of the day and night. Exh. K, at E–27 to E–29, E–35. On one visit, A. S.’s mother told the victim’s advocate that A. S. could be staying with an ex-boyfriend in Waukegan, Illinois, 40 miles away. *Id.*, at E–42 to E–43. The police detective visited the Waukegan address but was informed by the ex-boyfriend’s mother that she had not seen A. S. in several months and that A. S. was not staying with her or her son. *Id.*, at E–33 to E–34. The efforts to find A. S. continued until March 28, the day of the hearing on the State’s motion. *Id.*, at E–30.

Per Curiam

On a final visit to A. S.'s mother on the morning of March 28, the mother informed the police detective that A. S. had called approximately two weeks earlier and had said that she did not want to testify and would not return to Chicago. See *id.*, at E-30; 632 F. 3d 356, 359 (CA7 2011). A. S.'s mother told the detective that she still did not know where A. S. was or how to contact her. Exh. K, at E-30.

The trial court granted the State's motion and admitted A. S.'s earlier testimony. The trial court concluded that the State had "expended efforts that go way beyond due diligence," *id.*, at E-65, and that A. S. "ha[d] made it impossible for anybody to find where she is . . . in spite of what I think are superhuman efforts to locate [her]," *id.*, at E-67. At Cross' retrial, a legal intern from the State's attorney's office read A. S.'s prior, cross-examined testimony to the jury. According to the opinion below, the clerk's reading of the prior testimony did not include the long pauses that occurred at the first trial, and the clerk read the transcript with a slight inflection. See 632 F. 3d, at 359. The jury acquitted Cross of aggravated sexual assault but found him guilty of two counts of criminal sexual assault.

On appeal, the Illinois Court of Appeals agreed that A. S. was unavailable because "[i]t is clear from her telephone conversation with her mother that she was not in the city" and "also evident that she was in hiding and did not want to be located." *Id.*, at 83a. The court found that the State had conducted a good-faith, diligent search to locate A. S., and that the trial court had properly allowed the introduction of A. S.'s cross-examined testimony from the first trial. The court, therefore, affirmed Cross' convictions and sentence. The Supreme Court of Illinois denied Cross' petition for leave to appeal, and we denied Cross' petition for a writ of certiorari.

Cross then filed a petition for a writ of habeas corpus

Per Curiam

under 28 U. S. C. §2254 in the United States District Court for the Northern District of Illinois. Cross argued, among other things, that the state court had unreasonably applied clearly established Supreme Court precedents holding that the Confrontation Clause of the Sixth Amendment precludes the admission of the prior testimony of an allegedly unavailable witness unless the prosecution made a good-faith effort to obtain the declarant's presence at trial. The District Court denied Cross' petition, but the Seventh Circuit reversed. According to the Seventh Circuit, the Illinois Court of Appeals was unreasonable in holding that the State had made a sufficient effort to secure A. S.'s presence at the retrial. The Seventh Circuit stressed the importance of A. S.'s testimony and the manner of her testimony at the first trial.

In *Barber v. Page*, 390 U. S. 719 (1968), we held that "a witness is not 'unavailable' for purposes of the . . . confrontation requirement unless the prosecutorial authorities have made a good-faith effort to obtain his presence at trial." *Id.*, at 724–725. In *Barber*, we held that a witness had not been unavailable for Confrontation Clause purposes because the State, which could have brought the witness to court by seeking a writ of habeas corpus ad testificandum, had "made absolutely no effort to obtain [his] presence . . . at trial" apart from determining that he was serving a sentence in a federal prison. *Id.*, at 723; see also *id.*, at 725.

We again addressed the question of witness unavailability in *Ohio v. Roberts*, 448 U. S. 56 (1980). In that case, we held, the State had discharged its "duty of good-faith effort." *Id.*, at 75. We noted that the prosecutor had spoken to the witness' mother, who reported that she had no knowledge of her daughter's whereabouts and "knew of no way to reach [her] even in an emergency." *Ibid.* We also noted that the State had served five subpoenas in the witness' name to her parents' residence over a 4-month

Per Curiam

period prior to the trial. “The lengths to which the prosecution must go to produce a witness,” the Court made clear, “is a question of reasonableness.” *Id.*, at 74 (quoting *California v. Green*, 399 U. S. 149, 189, n. 22 (1970) (Harlan, J., concurring)). We acknowledged that there were some additional steps that the prosecutor might have taken in an effort to find the witness, but we observed that “[o]ne, in hindsight, may always think of other things.” 448 U. S., at 75. But “the great improbability that such efforts would have resulted in locating the witness, and would have led to her production at trial, neutralizes any intimation that a concept of reasonableness required their execution.” *Id.*, at 76.

In the present case, the holding of the Illinois Court of Appeals that the State conducted the requisite good-faith search for A. S. did not represent an unreasonable application of our Confrontation Clause precedents. Whether or not the state court went too far in characterizing the prosecution’s efforts as “superhuman,” the state court identified the correct Sixth Amendment standard and applied it in a reasonable manner.

The Seventh Circuit found that the State’s efforts were inadequate for three main reasons. First, the Seventh Circuit faulted the State for failing to contact “A. S.’s current boyfriend—whom she was with just moments before the alleged assault—or any of her other friends in the Chicago area.” 632 F. 3d, at 362. But the record does not show that any of A. S.’s family members or any other persons interviewed by the State provided any reason to believe that any of these individuals had information about A. S.’s whereabouts.

Second, the Seventh Circuit criticized the State because it did not make inquiries at the cosmetology school where A. S. had once been enrolled, *ibid.*, but the court’s own opinion observed that the information about A. S.’s enrollment at the cosmetology school after the mistrial was

Per Curiam

not “noteworthy” or “particularly helpful.” *Ibid.* Since A. S. had not attended the school for some time, Exh. K, at E-42, there is no reason to believe that anyone at the school had better information about A. S.’s location than did the members of her family.

Finally, the Seventh Circuit found that the State’s efforts were insufficient because it had neglected to serve her with a subpoena after she expressed fear about testifying at the retrial. A. S., however, had expressed fear about testifying at the first trial but had nevertheless appeared in court and had taken the stand. The State represented that A. S., although fearful, had agreed to testify at the retrial as well. 632 F. 3d, at 362. We have never held that the prosecution must have issued a subpoena if it wishes to prove that a witness who goes into hiding is unavailable for Confrontation Clause purposes, and the issuance of a subpoena may do little good if a sexual assault witness is so fearful of an assailant that she is willing to risk his acquittal by failing to testify at trial.

As we observed in *Roberts*, when a witness disappears before trial, it is always possible to think of additional steps that the prosecution might have taken to secure the witness’ presence, see 448 U. S., at 75, but the Sixth Amendment does not require the prosecution to exhaust every avenue of inquiry, no matter how unpromising. And, more to the point, the deferential standard of review set out in 28 U. S. C. §2254(d) does not permit a federal court to overturn a state court’s decision on the question of unavailability merely because the federal court identifies additional steps that might have been taken. Under AEDPA, if the state-court decision was reasonable, it cannot be disturbed.

The petition for a writ of certiorari and Cross’ motion to proceed *in forma pauperis* are granted, and the judgment of the Court of Appeals for the Seventh Circuit is

Reversed.