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SUPREME COURT OF THE UNITED STATES

No. 91–542

ELLIS B. WRIGHT, JR., WARDEN AND MARY SUE TERRY, ATTORNEY GENERAL OF VIRGINIA, PETITIONERS *v.* FRANK ROBERT WEST, JR.

ON WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE FOURTH CIRCUIT

[June 19, 1992]

JUSTICE THOMAS announced the judgment of the Court and delivered an opinion, in which THE CHIEF JUSTICE and JUSTICE SCALIA joined.

In this case, we must determine whether the Court of Appeals for the Fourth Circuit correctly applied our decision in *Jackson* v. *Virginia*, 443 U. S. 307 (1979), in concluding that the evidence against respondent Frank West was insufficient, as a matter of due process, to support his state-court conviction for grand larceny.

Between December 13 and December 26, 1978, someone broke into the Westmoreland County, Virginia, home of Angelo Cardova and stole items valued at approximately $3,500. On January 10, 1979, police conducted a lawful search of the Gloucester County, Virginia, home of West and his wife. They discovered several of the items stolen from the Cardova home, including various electronic equipment (two television sets and a record player); articles of clothing (an imitation mink coat with the name “Esther” embroidered in it, a silk jacket emblazoned “Korea 1970,'' and a pair of shoes); decorations (several wood carvings and a mounted lobster); and miscellaneous household objects (a mirror framed with seashells, a coffee table, a bar, a sleeping bag and some silverware). These items

were valued at approximately $800, and the police recovered other, unspecified items of Cardova's property with an approximate value of $300.

West was charged with grand larceny. Testifying at trial on his own behalf, he admitted to a prior felony conviction, but denied having taken anything from Cardova's house. He explained that he had bought and sold "a lot of . . . merchandise" from "several guys" at "flea bargain places" where, according to West, "a lot of times you buy things . . . that are stolen" although "you never know it." App. 21. On cross-examination, West said that he had bought many of the stolen items from a Ronnie Elkins, whom West claimed to have known for years. West testified that he purchased one of the wood carvings, the jacket, mounted lobster, mirror and bar from Elkins for about $500. West initially guessed, and then twice positively asserted, that this sale occurred before January 1, 1979. In addition, West claimed to have purchased the coat from Elkins for $5 around January 1, 1979. His testimony did not make clear whether he was describing one transaction or two, whether there were any other transactions between himself and Elkins, where the transactions occurred, and whether the transactions occurred at flea markets.[1] West testified further that he had

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[1]The quality of West's testimony on these matters can best be appreciated by example:

``QAre those items that you bought at a flea market?

``AWell, I didn't buy these items at a flea market, no sir.

``QWhose items are they?

``AThey are some items that I got from a Ronnie Elkins.

``QAll of the items you bought from him?

``AI can't say all.

``QWhich ones did you buy from him?

``AI can't say, because I don't have an inventory.

``QCan you tell me the ones you bought from Ronnie Elkins?

purchased one of the television sets in an entirely separate transaction in Goochland County, from an individual whose name he had forgotten. Finally, West testified that he did not remember how he had acquired the second television, the coffee table, and the silverware.

Under then-applicable Virginia law, grand larceny was defined as the wrongful and nonconsensual

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``AYes, I am sure I can.

``QWhich ones?

``AI would say the platter.

``QHow about the sea shell mirror?

``AYes, sir, I think so.

``QWhere did you buy that?

``AIn Newport News at a flea market.'' App. 21–22.

``QI want to know about your business transactions with Ronnie Elkins.

``AI buy and sell different items from different individuals at flea markets.

``QTell us where that market is.

``AIn Richmond. You have them in Gloucester.

``QWhere is Ronnie Elkins' flea market?

``AHe does not have one.

``QDidn't you say you bought some items from Ronnie Elkins?

``AAt a flea market.

``QTell the jury where that is at [*sic*].

``AIn Gloucester.

``QTell the jury about this flea market and Ronnie Elkins, some time around January 1, and these items, not the other items.

``ARonnie Elkins does not own a flea market.

``QTell the jury, if you will, where Ronnie Elkins was on the day that you bought the items?

``AI don't remember. It was before January 1.

``QWhere was it?

``AI bought stuff from him in Richmond, Gloucester, and Newport News.'' *Id.,* at 26–27.

taking of property worth at least $100, with the intent to deprive the owner of it permanently. See Va. Code §18.2–95 (1975); *Skeeter* v. *Commonwealth,* 217 Va. 722, 725, 232 S. E. 2d 756, 758 (1977). Virginia law permits an inference that a person who fails to explain, or falsely explains, his exclusive possession of recently stolen property is the thief. See, *e.g., Moehring* v. *Commonwealth,* 223 Va. 564, 568, 290 S. E. 2d 891, 893 (1982); *Best* v. *Commonwealth,* 222 Va. 387, 389, 282 S. E. 2d 16, 17 (1981). The trial court instructed the jurors about this permissive inference, but warned that the inference did not compromise their constitutional obligation to acquit unless they found that the State had established every element of the crime beyond a reasonable doubt (see *In re Winship,* 397 U. S. 358 (1970)).[2]

The jury returned a guilty verdict, and West received a 10-year prison sentence. West petitioned

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[2]The instruction on the permissive inference read:

"If you belie[ve] from the evidence beyond a reasonable doubt that property of a value of $100.00 or more was stolen from Angelo F. C[a]rdova, and that it was recently thereafter found in the exclusive and personal possession of the defendant, and that such possession has been unexplained or falsely denied by the defendant, then such possession is sufficient to raise an inference that the defendant was the thief; and if such inference, taking into consideration the whole evidence, leads you to believe beyond a reasonable doubt that the defendant committed the theft, then you shall find the defendant guilty." App. 34.

Several other instructions emphasized that despite the permissive inference, "[t]he burden is upon the Commonwealth to prove by the evidence beyond a reasonable doubt every material and necessary element of the offense charged against the defendant." *Ibid.*

for an appeal, contending (among other things) that the evidence was insufficient to support a finding of guilt beyond a reasonable doubt. In May 1980, the Supreme Court of Virginia refused the petition—a disposition indicating that the court found the petition without merit, see *Saunders* v. *Reynolds*, 214 Va. 697, 700, 204 S. E. 2d 421, 424 (1974). Seven years later, West filed a petition for a writ of habeas corpus in the same court, supported by an affidavit executed by Ronnie Elkins in April 1987. West renewed his claim that the original trial record contained insufficient evidence to support the conviction, and he argued in the alternative that Elkins's affidavit, which tended to corroborate West's trial testimony in certain respects, constituted new evidence entitling him to a new trial. The Supreme Court of Virginia again denied relief. West then filed a petition for a writ of habeas corpus in the District Court for the Eastern District of Virginia, which rejected both claims and denied relief.

The Court of Appeals for the Fourth Circuit reversed. 931 F. 2d 262 (1991). As the court correctly recognized, a claim that evidence is insufficient to support a conviction as a matter of due process depends on "whether, after viewing the evidence in the light most favorable to the prosecution, *any* rational trier of fact could have found the essential elements of the crime beyond a reasonable doubt." *Jackson* v. *Virginia,* 443 U. S., at 319 (emphasis in original). Five considerations led the court to conclude that this standard was not met: first, the items were recovered no sooner than two weeks after they had been stolen; second, only about a third of the items stolen from Cardova (measured by value) were recovered from West; third, the items were found in West's house in plain view, and not hidden away as contraband; fourth, West's explanation of his possession was not so "inherently implausible," even if it were disbelieved, that it could "fairly be treated as positive evidence of guilt"; and fifth, there was no

corroborating evidence (such as fingerprints or eyewitness testimony) beyond the fact of mere possession. See 931 F. 2d, at 268–270. The court viewed West's testimony as "at most, a neutral factor," *id.*, at 270, despite noting his "confusion" about the details of his alleged purchases, *id.*, at 269, and despite conceding that his testimony "at first blush . . . may itself seem incredible," *id.*, at 270, n. 7. In holding that the *Jackson* standard was not met, the court did not take into consideration the fact that the Supreme Court of Virginia had twice previously concluded otherwise.

After the Fourth Circuit denied rehearing *en banc* by an equally divided court, see App. to Pet. for Cert. 34–35, the warden and the State Attorney General sought review in this Court on, among other questions, whether the Court of Appeals had applied *Jackson* correctly in this case. We granted certiorari, 502 U. S. ___ (1991), and requested additional briefing on the question whether a federal habeas court should afford deference to state-court determinations applying law to the specific facts of a case, 502 U. S. ––– (1991). We now reverse.

The habeas corpus statute permits a federal court to entertain a petition from a state prisoner "only on the ground that he is in custody in violation of the Constitution or laws or treaties of the United States." 28 U. S. C. §2254(a). The court must "dispose of the matter as law and justice require." §2243. For much of our history, we interpreted these bare guidelines and their predecessors to reflect the common-law principle that a prisoner seeking a writ of habeas corpus could challenge only the jurisdiction of the court that had rendered the judgment under which he was in custody. See, *e.g.*, *In re Wood*, 140 U. S. 278, 285–287 (1891) (Harlan, J.); *Ex parte Watkins*, 3 Pet. 193, 202 (1830) (Marshall, C. J.). Gradually, we began to expand the category of claims deemed to

be jurisdictional for habeas purposes. See, *e.g.*, *Ex parte Siebold*, 100 U. S. 371, 377 (1880) (court without jurisdiction to impose sentence under unconstitutional statute); *Ex parte Lange*, 18 Wall. 163, 176 (1874) (court without jurisdiction to impose sentence not authorized by statute). Next, we began to recognize federal claims by state prisoners if no state court had provided a full and fair opportunity to litigate those claims. See, *e.g., Moore* v. *Dempsey,* 261 U. S. 86, 91–92 (1923); *Frank* v. *Magnum,* 237 U. S. 309, 335–336 (1915). Before 1953, however, the inverse of this rule also remained true: absent an alleged jurisdictional defect, "habeas corpus would not lie for a [state] prisoner . . . if he had been given an adequate opportunity to obtain full and fair consideration of his federal claim in the state courts." *Fay* v. *Noia,* 372 U. S. 391, 459–460 (1963) (Harlan, J., dissenting). See generally Bator, Finality in Criminal Law and Federal Habeas Corpus for State Prisoners, 76 Harv. L. Rev. 441, 478–499 (1963). In other words, the state-court judgment was entitled to "*absolute* respect," *Kuhlmann* v. *Wilson,* 477 U. S. 436, 446 (1986) (Opinion of Powell, J.) (emphasis added), and a federal habeas court could not review it even for reasonableness.[3]

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[3]JUSTICE O'CONNOR offers three criticisms of our summary of the history of habeas corpus before 1953, none of which we find convincing. First, she contends that the full-and-fair litigation standard in *Frank* v. *Magnum,* 237 U. S. 309 (1915), and *Moore* v. *Dempsey,* 261 U.S. 86 (1923), served no purpose other than to define the scope of the underlying alleged constitutional violation. See *post*, at 1–3. *Frank* and *Moore* involved claims, rejected by the state appellate courts, that a trial had been so dominated by a mob as to violate due process. In *Frank,* we denied relief not because the state appellate court had decided the federal claim

We rejected the principle of absolute deference in our landmark decision in *Brown* v. *Allen*, 344 U. S. 443 (1953). There, we held that a state-court judgment of conviction "is not *res judicata*" on federal habeas with respect to federal constitutional claims, *id.*, at 458, even if the state court has rejected all such claims after a full and fair hearing. Instead, we held, a district court must determine whether the state-court

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correctly (the relevant question on direct review), and not even because the state appellate court had decided the federal claim *reasonably*, but only "because Frank's federal claims had been considered by a competent and unbiased state tribunal," *Stone* v. *Powell*, 428 U. S. 465, 476 (1976). In *Moore*, which reaffirmed *Frank* expressly, see 261 U. S., at 90–91, we ordered the district court to consider the mob domination claim on the merits because the state appellate court's "perfunctory treatment" of it "was not in fact acceptable corrective process." *Noia*, 372 U. S., at 458 (Harlan, J., dissenting); see also Bator, 76 Harv. L. Rev., at 488–489. In both cases, a claim that the habeas petitioner had been denied due process *at trial* was not cognizable on habeas unless the petitioner *also* had been denied a full and fair opportunity to raise that claim *on appeal*.

Second, JUSTICE O'CONNOR states that we mischaracterize the views of Justice Powell about the history of habeas law between 1915 and 1953. See *post*, at 3. In fact, however, Justice Powell has often recounted exactly the same familiar history that we summarize above. In *Rose* v. *Mitchell,* 443 U. S. 545 (1979), for example, he described *Frank* as having ``modestly expanded'' the ``scope of the writ'' in order to ``encompass those cases where the defendant's federal constitutional claims had not been considered in the state-court proceeding.'' 443 U. S., at 580 (Powell, J., concurring in judgment). Similarly, in *Schneckloth* v. *Bustamonte*, 412 U. S. 218

adjudication "has resulted in a satisfactory conclusion." *Id.*, at 463. We had no occasion to explore in detail the question whether a "satisfactory" conclusion was one that the habeas court considered *correct*, as opposed to merely *reasonable*, because we concluded that the constitutional claims advanced in *Brown* itself would fail even if the state courts' rejection of them were reconsidered *de novo*. See *id.*,

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(1973), he described *Frank* as having extended ``[t]he scope of federal habeas corpus'' to permit consideration of ``whether the applicant had been given an adequate opportunity in state court to raise his constitutional claims.'' 412 U. S., at 255–256 (concurring opinion). In neither case, nor in *Kuhlmann*, did Justice Powell even suggest that federal habeas was available before 1953 to a prisoner who had received a full and fair opportunity to litigate his federal claim in state court.

Third, JUSTICE O'CONNOR criticizes our failure to acknowledge *Salinger* v. *Loisel*, 265 U. S. 224 (1924), which she describes as the first case explicitly to hold that "*res judicata* is not strictly followed on federal habeas." *Post*, at 3. *Salinger*, however, involved the degree of preclusive effect of a habeas judgment upon *subsequent* habeas petitions filed by a *federal* prisoner. This case, of course, involves the degree of preclusive effect of a criminal conviction upon an an *initial* habeas petition filed by a *state* prisoner. We cannot fault ourselves for limiting our focus to the latter context. But even assuming its relevance, *Salinger* hardly advances the position advocated by JUSTICE O'CONNOR that a habeas court must exercise *de novo* review with respect to mixed questions of law and fact. Despite acknowledging that a prior habeas judgment is not entitled to absolute preclusive effect under the doctrine of res judicata, *Salinger* also indicated that the prior habeas judgment "*may* be considered, and even given

at 465–476. Nonetheless, we indicated that the federal courts enjoy at least the discretion to take into consideration the fact that a state court has previously rejected the federal claims asserted on habeas. See *id.*, at 465 ("As the state and federal courts have the same responsibilities to protect persons from violation of their constitutional rights, we conclude that a federal district court may decline, without a rehearing of the facts, to award a writ of habeas corpus to a state prisoner where the legality of such detention has been determined, on the facts presented, by the highest state court with jurisdiction").[4]

In an influential separate opinion endorsed by a majority of the Court, Justice Frankfurter also rejected the principle of absolute deference to fairly-litigated state-court judgments. He emphasized that a state-court determination of federal constitutional law is not "binding" on federal habeas, *id.,* at 506, regardless of whether the determination involves a

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controlling weight." 265 U. S., at 231 (emphasis added).

[4] JUSTICE O'CONNOR contends that the inclusion of this passage in a section of our opinion entitled "Right to a Plenary Hearing" makes clear that we were discussing only the resolution of *factual* questions. See *post*, at 3–4. In our introduction to that section, however, we indicated that both factual and legal questions were at issue. See 344 U. S., at 460 (noting contentions "that the District Court committed error when it took no evidence *and heard no argument on the federal constitutional issues*" (emphasis added)). Indeed, if only factual questions were at issue, we would have authorized a denial of the writ not whenever the state-court proceeding "has resulted in a satisfactory *conclusion*" (as we did), *id.,* at 463 (emphasis added), but only whenever the state-court proceeding has resulted in satisfactory *factfinding*.

pure question of law, *ibid.,* or a "so-called mixed questio[n]" requiring the application of law to fact, *id.,* at 507. Nonetheless, he stated quite explicitly that a ``prior State determination may guide [the] discretion [of the district court] in deciding upon the appropriate course to be followed in disposing of the application." *Id.*, at 500. Discussing mixed questions specifically, he noted further that "there is no need for the federal judge, if he could, to shut his eyes to the State consideration." *Id.*, at 508.[5]

In subsequent cases, we repeatedly reaffirmed *Brown*'s teaching that mixed constitutional questions are "open to review on collateral attack," *Cuyler* v. *Sullivan*, 446 U. S. 335, 342 (1980), without ever explicitly considering whether that "review" should be *de novo* or deferential. In some of these cases, we would have denied habeas relief even under *de novo* review, see, *e.g.*, *Strickland* v. *Washington*, 466 U. S. 668, 698 (1984) (facts make it "clear" that habeas petitioner did not receive ineffective assistance of counsel); *Neil* v. *Biggers*, 409 U. S. 188, 201 (1972)

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[5]JUSTICE O'CONNOR quotes Justice Frankfurter for the proposition that a district judge on habeas "`*must exercise his own judgment*'" with respect to mixed questions. *Post*, at 4 (quoting 344 U. S., at 507). Although we agree with JUSTICE O'CONNOR that this passage by itself suggests a *de novo* standard, it is not easily reconciled with Justice Frankfurter's later statement that "there is no need for the federal judge, if he could, to shut his eyes to the State consideration" of the mixed question, *id.*, at 508. These statements can be reconciled, of course, on the assumption that the habeas judge must review the state-court determination for reasonableness. But we need not attempt to defend that conclusion in detail, for we conclude not that *Brown* v. *Allen* establishes deferential review for reasonableness, but only that *Brown* does not squarely foreclose it.

(facts disclose "no substantial likelihood" that habeas petitioner was subjected to unreliable pretrial lineup); in others, we would have awarded habeas relief even under deferential review, see, *e.g., Brewer* v. *Williams,* 430 U. S. 387, 405 (1977) (facts provide "no reasonable basis" for finding valid waiver of right to counsel); *Irvin* v. *Dowd*, 366 U. S. 717, 725 (1961) (facts show "clear and convincing" evidence of biased jury); and in yet others, we remanded for application of a proper legal rule without addressing that standard of review question, see, e.g., *Cuyler, supra,* at 342, 350. Nonetheless, because these cases never qualified our early citation of *Brown* for the proposition that a federal habeas court *must* reexamine mixed constitutional questions "independently," *Townsend* v. *Sain*, 372 U. S. 293, 318 (1963) (dictum), we have gradually come to treat as settled the rule that mixed constitutional questions are "subject to plenary federal review" on habeas. *Miller* v. *Fenton*, 474 U. S. 104, 112 (1985).[6]

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[6]We have no disagreement with JUSTICE O'CONNOR that *Brown* v. *Allen* quickly came to be cited for the proposition that a habeas court should review mixed questions "independently"; that several of our cases since *Brown* have applied a *de novo* standard with respect to pure and mixed legal questions; and that the *de novo* standard thus appeared well settled with respect to both categories by the time the Court decided *Miller* v. *Fenton* in 1985. See *post*, at 4–7. Despite her extended discussion of the leading cases from *Brown* through *Miller*, however, JUSTICE O'CONNOR offers nothing to refute those of our limited observations with which she evidently disagrees—that an unadorned citation to *Brown* should not have been enough, at least as an original matter, to establish *de novo* review with respect to mixed questions; and that in none of our leading cases was the choice between a *de novo* and a deferential standard

Jackson itself contributed to this trend. There, we held that a conviction violates due process if supported only by evidence from which "no rational trier of fact could find guilt beyond a reasonable doubt." 443 U. S., at 317. We stated explicitly that a state-court judgment applying the *Jackson* rule in a particular case "is of course entitled to deference" on federal habeas. *Id.*, at 323; see also *id.*, at 336, n. 9 (STEVENS, J., concurring in judgment) ("State judges are more familiar with the elements of state offenses than are federal judges and should be better able to evaluate sufficiency claims"). Notwithstanding these principles, however, we then indicated that the habeas court itself should apply the *Jackson* rule, see *id.,* at 324, rather than merely reviewing the state courts' application of it for reasonableness. Ultimately, though, we had no occasion to resolve our conflicting statements on the standard of review question, because we concluded that the habeas petitioner was not entitled to relief even under our own *de novo* application of *Jackson*. See *id.*, at 324–326.[7]

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outcome determinative.

[7]JUSTICE O'CONNOR asserts that *Jackson* "expressly rejected" a "deferential standard of review" that she characterizes as "very much like the one" urged on us by petitioners. *Post*, at 7 (citing 443 U. S., at 323). What *Jackson* expressly rejected, however, was a proposal that habeas review "should be foreclosed" if the state courts provide "appellate review of the sufficiency of the evidence." *Ibid.* That rule, of course, would permit *no* habeas review of a state-court sufficiency determination. As we understand it, however, petitioners' proposal would permit limited review for reasonableness, a standard surely consistent with our own statement that that state-court determination "is of course entitled to deference," *ibid.* We agree with JUSTICE O'CONNOR that

Despite our apparent adherence to a standard of *de novo* habeas review with respect to mixed constitutional questions, we have implicitly questioned that standard, at least with respect to pure legal questions, in our recent retroactivity precedents. In *Penry* v. *Lynaugh*, 492 U. S. 302, 313–314 (1989), a majority of this Court endorsed the retroactivity analysis advanced by JUSTICE O'CONNOR for a plurality in *Teague* v. *Lane*, 489 U. S. 288 (1989). Under *Teague*, a habeas petitioner generally cannot benefit from a new rule of criminal procedure announced after his conviction has become final on direct appeal. See *id.*, at 305–310 (Opinion of O'CONNOR, J.). *Teague* defined a "new" rule as one that was "not *dictated* by precedent existing at the time the defendant's conviction became final." *Id.*, at 301 (emphasis in original). In *Butler* v. *McKellar*, 494 U. S. 407, 415 (1990), we explained that the definition includes all rules "susceptible to debate among reasonable minds." Thus, if a state court has reasonably rejected the legal claim asserted by a habeas petitioner under existing law, then the claim seeks the benefit of a "new" rule under *Butler*, and is therefore not cognizable on habeas under *Teague*. In other words, a federal habeas court "must defer to the state court's decision rejecting the claim unless that decision is patently unreasonable." *Butler*, *supra*, at 422 (Brennan, J., dissenting).[8]

Jackson itself applied a *de novo* standard. See *post*, at 7. Nonetheless, given our statement expressly endorsing a notion of at least limited deference, and given that the *Jackson* petitioner would have lost under either a *de novo* standard or a reasonableness standard, we cannot agree that the case "expressly rejected" the latter, *ibid.*

[8] JUSTICE O'CONNOR suggests that *Teague* and its progeny "did not establish a standard of review at all." *Post*, at 7. Instead, she contends, these cases

Teague was premised on the view that retroactivity questions in habeas corpus proceedings must take account of the nature and function of the writ, which we described as "`a *collateral* remedy . . . not designed as a substitute for direct review.'" 489 U. S., at 306 (Opinion of O'CONNOR, J.) (quoting *Mackey* v. *United States*, 401 U. S. 667, 682–683 (1971) (Harlan, J., concurring in judgments in part and

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merely prohibit the retroactive application of new rules on habeas, *ibid.*, and establish the criterion for distinguishing new rules from old ones, *post*, at 7–8. We have no difficulty with describing *Teague* as a case about retroactivity, rather than standards of review, although we do not dispute JUSTICE O'CONNOR's suggestion that the difference, at least in practice, might well be ``only `a matter of phrasing.'" *Post*, at 8 (citation omitted). We do disagree, however, with JUSTICE O'CONNOR's definition of what constitutes a ``new rule'' for *Teague* purposes. A rule is new, she contends, if it ``can be meaningfully distinguished from that established by binding precedent at the time [the] state court conviction became final.'' *Post*, at 7. This definition leads her to suggest that a habeas court must determine whether the state courts have interpreted old precedents ``properly.'' *Post*, at 8. Our precedents, however, require a different standard. We have held that a rule is "new" for *Teague* purposes whenever its validity under existing precedents is subject to debate among "reasonable minds," *Butler*, 494 U. S., at 415, or among "reasonable jurists," *Sawyer* v. *Smith,* 497 U. S. 227, 234 (1990). Indeed, each of our last four relevant precedents has indicated that *Teague* insulates on habeas review the state courts' "`reasonable, good-faith interpretations of existing precedents.'" *Ibid.* (quoting *Butler*, 494 U. S., at 414); *Saffle* v. *Parks*, 494 U. S. 484, 488 (1990) (quoting *Butler*); see *Stringer* v. *Black,* 503 U. S. –––, ––– (1992)

dissenting in part)) (emphasis in *Mackey*). JUSTICE STEVENS reasoned similarly in *Jackson*, where he stressed that habeas corpus "is not intended as a substitute for appeal, nor as a device for reviewing the merits of guilt determinations at criminal trials," but only "to guard against extreme malfunctions in the state criminal justice systems." 443 U. S., at 332, n. 5 (opinion concurring in judgment); see also *Greer* v. *Miller,* 483 U. S. 756, 768–769 (1987) (STEVENS, J., concurring in judgment). Indeed, the notion that different standards should apply on direct and collateral review runs throughout our recent habeas jurisprudence. We have said, for example, that new rules always have retroactive application to criminal cases pending on direct review, see *Griffith* v. *Kentucky*, 479 U. S. 314, 320–328 (1987), but that they generally do not have retroactive application to criminal cases pending on habeas, see *Teague, supra,* at 305–310 (Opinion of O'CONNOR, J.). We have held that the Constitution guarantees the right to counsel on a first direct appeal, see, *e.g.*, *Douglas* v. *California*, 372 U. S. 353, 355–358 (1963), but that it guarantees no right to counsel on habeas, see, *e.g.*, *Pennsylvania* v. *Finley*, 481 U. S. 551, 555 (1987). On direct review, we have announced and enforced the rule that state courts must exclude evidence obtained in violation of the Fourth Amendment. See, *e.g.*, *Mapp* v. *Ohio*, 367 U. S. 643, 654–660 (1961). We have also held, however, that claims under *Mapp* are not cognizable on habeas as long as the state courts have provided a full and fair opportunity to litigate them at trial or on direct review. See *Stone* v. *Powell*,

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(slip op., at 14) ("The purpose of the new rule doctrine is to validate reasonable interpretations of existing precedents"). Thus, *Teague* bars habeas relief whenever the state courts have interpreted old precedents *reasonably,* not only when they have done so ``properly,'' *post,* at 8.

428 U. S. 465, 489–496 (1976).

These differences simply reflect the fact that habeas review "entails significant costs." *Engle* v. *Isaac*, 456 U. S. 107, 126 (1982). Among other things, "`[i]t disturbs the State's significant interest in repose for concluded litigation, denies society the right to punish some admitted offenders, and intrudes on state sovereignty to a degree matched by few exercises of federal judicial authority.'" *Duckworth* v. *Eagan*, 492 U. S. 195, 210 (1989) (O'CONNOR, J., concurring) (quoting *Harris* v. *Reed*, 489 U. S. 255, 282 (1989) (KENNEDY, J., dissenting)). In various contexts, we have emphasized that these costs, as well as the countervailing benefits, must be taken into consideration in defining the scope of the writ. See, *e.g., Coleman* v. *Thompson,* 501 U. S. –––, ––– (1991) (slip op., at 19–26) (procedural default); *Mc-Cleskey* v. *Zant,* 499 U. S. –––, ––– (1991) (slip op., at 24–28) (abuse of the writ); *Teague, supra*, at 308–310 (Opinion of O'CONNOR, J.) (retroactivity); *Kuhlmann* v. *Wilson, supra*, at 444–455 (Opinion of Powell, J.) (successive petitions); *Stone* v. *Powell, supra,* at 491–492, n. 31 (cognizability of particular claims).

In light of these principles, petitioners ask that we reconsider our statement in *Miller* v. *Fenton* that mixed constitutional questions are "subject to plenary federal review" on habeas, 474 U. S., at 112. By its terms, *Teague* itself is not directly controlling, because West sought federal habeas relief under *Jackson*, which was decided a year before his conviction became final on direct review. Nonetheless, petitioners contend, the logic of *Teague* makes our statement in *Miller* untenable. Petitioners argue that if deferential review for reasonableness strikes an appropriate balance with respect to purely legal claims, then it must strike an appropriate balance with respect to mixed questions as well. Moreover, they note that under the habeas statute itself, a state-court determination of a purely factual question

must be "presumed correct," and can be overcome only by "convincing evidence," unless one of eight statutorily enumerated exceptions is present. 28 U. S. C. §2254(d). It makes no sense, petitioners assert, for a habeas court generally to review factual determinations and legal determinations deferentially, but to review applications of law to fact *de novo*. Finally, petitioners find the prospect of deferential review for mixed questions at least implicit in our recent statement that *Teague* concerns are fully implicated "by the *application* of an old rule in a manner that was not dictated by precedent." *Stringer* v. *Black,* 503 U. S. –––, ––– (1992) (emphasis added) (slip op., at 4). For these reasons, petitioners invite us to reaffirm that a habeas judge need not—and indeed may not—``shut his eyes" entirely to state-court applications of law to fact. *Brown* v. *Allen*, 344 U. S., at 508 (Opinion of Frankfurter, J.). West develops two principal counterarguments: first, that Congress implicitly codified a *de novo* standard with respect to mixed constitutional questions when it amended the habeas statute in 1966; and second, that *de novo* federal review is necessary to vindicate federal constitutional rights.[9]

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[9]JUSTICE O'CONNOR criticizes our failure to highlight in text the fact that Congress has considered, but failed to enact, several bills introduced during the last 25 years to prohibit *de novo* review explicitly. See *post*, at 9; see also Brief for Senator Biden et al. as *Amici Curiae* 10–16 (discussing various proposals). Our task, however, is not to construe bills that Congress has failed to enact, but to construe statutes that Congress has enacted. The habeas corpus statute was last amended in 1966. See 80 Stat. 1104–1105. We have grave doubts that post-1966 legislative history is of any value in construing its provisions, for we have often observed that "`the views of a subsequent Congress form a hazardous basis for

We need not decide such far-reaching issues in this case. As in both *Brown* and *Jackson,* the claim advanced by the habeas petitioner must fail even assuming that the state court's rejection of it should be reconsidered *de novo*. Whatever the appropriate standard of review, we conclude that there was more than enough evidence to support West's conviction.

The case against West was strong. Two to four weeks after the Cardova home had been burglarized, over 15 of the items stolen were recovered from West's home. On direct examination at trial, West said nothing more than that he frequently bought and sold items at different flea markets. He failed to offer specific information about how he had come to acquire any of the stolen items, and he did not even mention Ronnie Elkins by name. When pressed on cross-examination about the details of his purchases, West contradicted himself repeatedly about where he supposedly had bought the stolen goods, and he gave vague, seemingly evasive answers to various other questions. See n. 1, *supra.* He said further that he could not remember how he had acquired such major household items as a television set and a coffee table, and he failed to offer any explanation whatsoever about how he had acquired Cardova's record player, among other things. Moreover, he testified that he had acquired Cardova's second

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inferring the intent of an earlier one.'" *Consumer Product Safety Comm'n* v. *GTE Sylvania, Inc.*, 447 U. S. 102, 117 (1980), quoting *United States* v. *Price*, 361 U. S. 304, 313 (1960). Compare also *Sullivan* v. *Finkelstein*, 496 U. S. 617, 628, n. 8 (1990) (acknowledging "all the usual difficulties inherent in relying on subsequent legislative history") with *id.,* at 632 (SCALIA, J., concurring in part) ("Arguments based on subsequent legislative history, like arguments based on antecedent futurity, should not be taken seriously").

television set from a seller other than Elkins (who remained unidentified) in an entirely unrelated (but roughly contemporaneous) transaction. Finally, he failed to produce any other supporting evidence, such as testimony from Elkins, whom he claimed to have known for years and done business with on a regular basis.

As the trier of fact, the jury was entitled to disbelieve West's uncorroborated and confused testimony. In evaluating that testimony, moreover, the jury was entitled to discount West's credibility on account of his prior felony conviction, see Va. Code §19.2–269 (1990); *Sadoski* v. *Commonwealth,* 219 Va. 1069, 254 S. E. 2d 100 (1979), and to take into account West's demeanor when testifying, which neither the Court of Appeals nor we may review. And if the jury did disbelieve West, it was further entitled to consider whatever it concluded to be perjured testimony as affirmative evidence of guilt. See, *e.g., Wilson* v. *United States,* 162 U. S. 613, 620–621 (1896); *United States* v. *Zafiro,* 945 F. 2d 881, 888 (CA7 1991) (Posner, J.), cert. granted on other grounds, 503 U. S. ––– (1992); *Dyer* v. *MacDougall*, 201 F. 2d 265, 269 (CA2 1952) (L. Hand, J.).

In *Jackson*, we emphasized repeatedly the deference owed to the trier of fact and, correspondingly, the sharply limited nature of constitutional sufficiency review. We said that "*all of the evidence* is to be considered in the light most favorable to the prosecution," 443 U. S., at 319 (emphasis in original); that the prosecution need not affirmatively "rule out every hypothesis except that of guilt," *id.*, at 326; and that a reviewing court "faced with a record of historical facts that supports conflicting inferences must presume—even if it does not affirmatively appear in the record—that the trier of fact resolved any such conflicts in favor of the prosecution, and must defer to that resolution," *ibid.* Under these standards, we think it clear that the trial

record contained sufficient evidence to support West's conviction.

Having granted relief on West's *Jackson* claim, the Court of Appeals declined to address West's additional claim that he was entitled to a new trial, as a matter of due process, on the basis of newly-discovered evidence. See 931 F. 2d, at 271, n. 9. As that claim is not properly before us, we decline to address it here. The judgment of the Court of Appeals is reversed, and the case is remanded for further proceedings consistent with this opinion.

It is so ordered.