Syllabus

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

Syllabus

STRICKLER *v.* GREENE, WARDEN

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

No. 98–5864. Argued March 3, 1999– Decided June 17, 1999

The Commonwealth of Virginia charged petitioner with capital murder and related crimes. Because an open file policy gave petitioner access to all of the evidence in the prosecutor's files, petitioner's counsel did not file a pretrial motion for discovery of possible exculpatory evidence. At the trial, Anne Stoltzfus gave detailed eyewitness testimony about the crimes and petitioner's role as one of the perpetrators. The prosecutor failed to disclose exculpatory materials in the police files, consisting of notes taken by a detective during interviews with Stoltzfus, and letters written by Stoltzfus to the detective, that cast serious doubt on significant portions of her testimony. The jury found petitioner guilty, and he was sentenced to death. The Virginia Supreme Court affirmed. In subsequent state habeas corpus proceedings, petitioner advanced an ineffective assistance of counsel claim based, in part, on trial counsel's failure to file a motion under *Brady* v. *Maryland*, 373 U. S. 83, for disclosure of all exculpatory evidence known to the prosecution or in its possession. In response, the Commonwealth asserted that such a motion was unnecessary because of the prosecutor's open file policy. The trial court denied relief. The Virginia Supreme Court affirmed. Petitioner then filed a federal habeas petition and was granted access to the exculpatory Stoltzfus materials for the first time. The District Court vacated petitioner's capital murder conviction and death sentence on the grounds that the Commonwealth had failed to disclose those materials and that petitioner had not, in consequence, received a fair trial. The Fourth Circuit reversed because petitioner had procedurally defaulted his *Brady* claim by not raising it at his trial or in the state collateral proceedings. In addition, the Fourth Circuit concluded that the claim was, in any event, without merit.

Syllabus

Held: Although petitioner has demonstrated cause for failing to raise a *Brady* claim, Virginia did not violate *Brady* and its progeny by failing to disclose exculpatory evidence to petitioner. Pp. 17–34.

(a) There are three essential components of a true *Brady* violation: the evidence at issue must be favorable to the accused, either because it is exculpatory, or because it is impeaching; that evidence must have been suppressed by the State, either willfully or inadvertently; and prejudice must have ensued. The record in this case unquestionably establishes two of those components. The contrast between (a) the terrifying incident that Stoltzfus confidently described in her testimony and (b) her initial statement to the detective that the incident seemed a trivial episode suffices to establish the impeaching character of the undisclosed documents. Moreover, with respect to some of those documents, there is no dispute that they were known to the Commonwealth but not disclosed to trial counsel. It is the third component— whether petitioner has established the necessary prejudice— that is the most difficult element of the claimed *Brady* violation here. Because petitioner acknowledges that his *Brady* claim is procedurally defaulted, this Court must first decide whether that default is excused by an adequate showing of cause and prejudice. In this case, cause and prejudice parallel two of the three components of the alleged *Brady* violation itself. The suppression of the Stoltzfus documents constitutes one of the causes for the failure to assert a *Brady* claim in the state courts, and unless those documents were "material" for *Brady* purposes, see 373 U. S., at 87, their suppression did not give rise to sufficient prejudice to overcome the procedural default. Pp. 17–19.

(b) Petitioner has established cause for failing to raise a *Brady* claim prior to federal habeas because (a) the prosecution withheld exculpatory evidence; (b) petitioner reasonably relied on the prosecution's open file policy as fulfilling the prosecution's duty to disclose such evidence; and (c) the Commonwealth confirmed petitioner's reliance on the open file policy by asserting during state habeas proceedings that petitioner had already received everything known to the government. See *Murray* v. *Carrier*, 477 U. S. 478, 488, and *Amadeo* v. *Zant*, 486 U. S. 214, 222. *Gray* v. *Netherland*, 518 U. S. 152, and *McCleskey* v. *Zant*, 499 U. S. 467, distinguished. This Court need not decide whether any one or two of the foregoing factors would be sufficient to constitute cause, since the combination of all three surely suffices. Pp. 19–26.

(c) However, in order to obtain relief, petitioner must convince this Court that there is a reasonable probability that his conviction or sentence would have been different had the suppressed documents been disclosed to the defense. The adjective is important. The ques-

Syllabus

tion is not whether the defendant would more likely than not have received a different verdict with the suppressed evidence, but whether in its absence he received a fair trial, understood as a trial resulting in a verdict worthy of confidence. *Kyles* v. *Whitley*, 514 U. S. 419, 434. Here, other evidence in the the record provides strong support for the conclusion that petitioner would have been convicted of capital murder and sentenced to death, even if Stoltzfus had been severely impeached or her testimony excluded entirely. Notwithstanding the obvious significance of that testimony, therefore, petitioner cannot show prejudice sufficient to excuse his procedural default. Pp. 26–34.

149 F. 3d 1170, affirmed.

STEVENS, J., delivered the opinion of the Court, in which REHNQUIST, C. J., and O'CONNOR, SCALIA, GINSBURG, and BREYER, JJ., joined in full, in which KENNEDY and SOUTER, JJ., joined as to Part III, and in which THOMAS, J., joined as to Parts I and IV. SOUTER, J., filed an opinion concurring in part and dissenting in part, in which KENNEDY, J., joined as to Part II.