

NONPRECEDENTIAL DISPOSITION

To be cited only in accordance with FED. R. APP. P. 32.1

United States Court of Appeals**For the Seventh Circuit****Chicago, Illinois 60604**

Submitted March 17, 2025*

Decided March 24, 2025

BeforeFRANK H. EASTERBROOK, *Circuit Judge*THOMAS L. KIRSCH II, *Circuit Judge*CANDACE JACKSON-AKIWUMI, *Circuit Judge*

No. 24-1726

TYRONE STALLINGS,
*Petitioner-Appellant,**v.*DAISY CHASE,
*Respondent-Appellee.*Appeal from the United States District
Court for the Eastern District of
Wisconsin.

No. 22-CV-161-JPS

J. P. Stadtmueller,
*Judge.***ORDER**

Tyrone Stallings, a Wisconsin prisoner, appeals the denial of his petition for a writ of habeas corpus. *See* 28 U.S.C. § 2254. He argues that his right to confront adverse

* We have agreed to decide the case without oral argument because the briefs and record adequately present the facts and legal arguments, and oral argument would not significantly aid the court. FED. R. APP. P. 34(a)(2)(C). We have substituted Daisy Chase, the current warden of Redgranite Correctional Institution, for Michael Gierach. FED. R. APP. P. 43(c)(2).

witnesses at trial was violated when a non-testifying confidential informant's statements were admitted into evidence. *See* U.S. CONST. amend. VI. But because any violation of Stallings's right to confront an adverse witness would have been harmless, we affirm the district court's decision.

Stallings was arrested after police officers searched his residence under a no-knock warrant. In his application for the warrant, an officer had submitted an affidavit relaying statements from a confidential informant. The informant testified to being inside Stallings's house and seeing a firearm that belonged to Stallings; the informant also testified to seeing Stallings distribute cocaine. After obtaining the warrant, police officers searched Stallings's home and found nearly 200 grams of marijuana and a sawed-off shotgun.

Stallings was charged in state court with two firearm-related offenses and a drug offense. At trial, the warrant affidavit was admitted into evidence. The jury convicted Stallings of all three offenses, and he was sentenced to 13 years in prison.

When Stallings tried to appeal the convictions, his appellate counsel filed a no-merit report, and the Wisconsin Court of Appeals affirmed the judgment. *State v. Stallings*, No. 2018AP982-CRNM, 2021 WL 8534196 (Wis. Ct. App. Apr. 13, 2021). Relevant here, the court concluded that Stallings's right under the Confrontation Clause of the Sixth Amendment was not violated by the confidential informant's statements because they were not offered to prove that Stallings was a felon, or that he had possessed an illegal firearm or drugs. *Id.* at *9. Instead, the court explained that "[t]he warrant materials were introduced only as proof police had entered the residence pursuant to a warrant." *Id.* The Wisconsin Supreme Court denied Stallings's petition to review the appellate court's decision.

Stallings then petitioned for a writ of habeas corpus under 28 U.S.C. § 2254(d)(1). He made three arguments: (1) the search warrant that yielded evidence against him was not supported by probable cause as required by the Fourth Amendment; (2) the prosecution failed to retain and turn over potentially exculpatory evidence in violation of *Brady v. Maryland*, 373 U.S. 83 (1963); and (3) the confidential informant's statements in the warrant affidavit violated his right to confrontation under the Sixth Amendment.

The district court denied Stallings's petition. The court explained that the state appellate court's determination—that the confidential informant's statements were introduced to show only that the search was authorized by a warrant—was not an unreasonable application of federal law. Regardless, the court added, any error would

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have been harmless because there was plenty of other evidence linking Stallings to the crimes. The court denied a certificate of appealability.

Stallings then filed a notice of appeal, which we construed as a request for a certificate of appealability. We granted the request, framing the substantial constitutional question as “whether the admission into evidence of the search warrant application and affidavit violated Stallings’s rights under the Confrontation Clause.” For Stallings to receive relief, he must show that the state court unreasonably applied Supreme Court precedent or based its decision on an unreasonable determination of the facts. 28 U.S.C. § 2254(d); *see Woodford v. Visciotti*, 537 U.S. 19, 24–25 (2002).

Stallings argues that the state appellate court unreasonably applied Supreme Court precedent in deciding that the informant’s statements did not violate the Confrontation Clause. He contends that the state court unreasonably applied *Crawford v. Washington*, 541 U.S. 36, 51 (2004), which held that an out-of-court statement to police officers during interrogations violated the Confrontation Clause. And here, the confidential informant made statements to a police officer who formalized those statements in a warrant application.

But we need not reach the constitutional question in this case. “If there is one doctrine more deeply rooted than any other in the process of constitutional adjudication, it is that we ought not to pass on questions of constitutionality ... unless such adjudication is unavoidable.” *Spector Motor Serv. v. McLaughlin*, 323 U.S. 101, 105 (1944); *see Gulf Oil Co. v. Bernard*, 452 U.S. 89, 99 (1981). And here a nonconstitutional ground for decision is harmless error. “It is well settled that confrontation clause violations are subject to a harmless error analysis, ... and that the harmless error standard applies in habeas review” *U.S. ex rel. Lee v. Flannigan*, 884 F.2d 945, 951 (7th Cir. 1989). And Stallings cannot show “actual prejudice.” *Brecht v. Abrahamson*, 507 U.S. 619, 637 (1993). That is, he has not shown that the admission of the confidential informant’s statements into evidence “had substantial and injurious effect or influence in determining the jury’s verdict.” *Id.* at 623. Plenty of other evidence linked him to the charged offenses. The marijuana and shotgun were found in his home, various pieces of mail established that he resided there, and he confessed to selling marijuana and to various details about the shotgun that could lead a jury to believe that he owned it.

AFFIRMED