

**NOV 18 2004**Jones v. Calderon, 03-16602

Thompson, J., Dissenting

**CATHY A. CATTERSON, CLERK**  
**U.S. COURT OF APPEALS**

Because the state court's decision in this case was neither contrary to, nor an unreasonable application of, clearly established Supreme Court law, *see* 28 U.S.C. § 2254(d), I respectfully dissent.

The California Court of Appeal, applying the "highly deferential" review required by *Strickland v. Washington*, 466 U.S. 668, 689 (1984), concluded that Jones's counsel's performance was not deficient. In reaching this conclusion, the state court emphasized that given the existence of three independent sources of information indicating that Jones had only one prior felony conviction that qualified as a "strike," it was not objectively unreasonable under *Strickland* for his counsel not to have pursued further investigation. Jones thus failed to meet the standard required by 28 U.S.C. § 2254(d). I would affirm the district court's denial of his application for a writ of habeas corpus.