respect to the showing a claimant must make. One standard, found in some of the cases, was championed by the dissenters; "to show 'actual innocence' one must show by clear and convincing evidence that but for a constitutional error, no reasonable juror would have found the petitioner eligible for the death penalty."[1398] The Court adopted a second standard, under which the petitioner must demonstrate that "a constitutional violation has probably resulted in the conviction of one who is actually innocent." To meet this burden, a claimant "must show that it is more likely than not that no reasonable juror would have convicted him in the light of the new evidence."[1399]

In the Antiterrorism and Effective Death Penalty Act of 1996 (AEDPA),[1400] Congress imposed tight new restrictions on successive or abusive petitions, including making the circuit courts "gate keepers" in permitting or denying the filing of such petitions, with bars to appellate review of these decisions, provisions that in part were upheld in *Felker v. Turpin*.[1401] One important restriction in AEDPA bars a federal *habeas* court from granting a writ to any person in custody under a judgment of a state court "with respect to any claim that was adjudicated on the merits in State court proceedings unless the adjudication of the claim—(1) resulted in a decision that was contrary to, or involved an unreasonable application of, *clearly established Federal law, as determined by the Supreme Court of the United States*."[1402] The Court has made the significance of this restriction plain: Instead of assessing whether federal law was correctly applied *de novo*, as would be the course under direct review of a federal district court decision, the proper approach for federal *habeas* relief under AEDPA is the more deferential one of determining whether the Court has established clear precedent on the issue contested and, if so, whether the state's application of the prec-

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[1398] 513 U.S. at 334 (Chief Justice Rehnquist dissenting, with Justices Kennedy and Thomas), 342 (Justice Scalia dissenting, with Justice Thomas). This standard was drawn from Sawyer v. Whitley, 505 U.S. 333 (1992).

[1399] 513 U.S. at 327. This standard was drawn from Murray v. Carrier, 477 U.S. 478 (1986).

[1400] Pub. L. 104–132, Title I, 110 Stat. 1217–21, amending 28 U.S.C. §§ 2244, 2253, 2254, and Rule 22 of the Federal Rules of Appellate Procedure.

[1401] 518 U.S. 651 (1996).

[1402] The amended 28 U.S.C. § 2254(d) (emphasis added). The provision was applied in Bell v. Cone, 535 U.S. 685 (2002). *See also* Renico v. Lett, 559 U.S. ___, No. 09–338, slip op. 9–12 (2010). For analysis of its constitutionality, *see* the various opinions in Lindh v. Murphy, 96 F.3d 856 (7th Cir. 1996) (en banc), *rev'd on other grounds*, 521 U.S. 320 (1997); Drinkard v. Johnson, 97 F.3d 751 (5th Cir. 1996), *cert. denied*, 520 U.S. 1107 (1997); Hall v. Washington, 106 F.3d 742 (7th Cir. 1997); O'Brien v. Dubois, 145 F.3d 16 (1st Cir. 1998); Green v. French, 143 F.3d 865 (4th Cir. 1998), *cert. denied*, 525 U.S. 1090 (1999).