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 Lumber Co.,* 200 U. S. 321, 337.

SUPREME COURT OF THE UNITED STATES

Syllabus

ROMANO *v.* OKLAHOMA

CERTIORARI TO THE COURT OF CRIMINAL APPEALS OF OKLAHOMA

No. 92–9093. Argued March 22, 1994—Decided June 13, 1994

During the sentencing phase of petitioner's first-degree murder trial in Oklahoma, the State introduced a copy of the judgment and death sentence he had received during an earlier trial for another murder. The jury ultimately found that the aggravating circumstances outweighed the mitigating circumstances, and imposed a second death sentence on petitioner. In affirming, the Oklahoma Court of Criminal Appeals acknowledged that the evidence of petitioner's prior death sentence was irrelevant to determining the appropriateness of the second death sentence, but held that admission of the evidence did not violate the Eighth and Fourteenth Amendments under *Caldwell* v. *Mississippi,* 472 U. S. 320, or so infect the sentencing determination with unfairness as to amount to a denial of due process.

Held: The admission of evidence regarding petitioner's prior death sentence did not amount to constitutional error. Pp. 4–12.

(a) Admission of the evidence at issue did not contravene the principle established in *Caldwell, supra,* at 342 (O'CONNOR, J., concurring in part and concurring in judgment), because the evidence did not affirmatively mislead the jury regarding its role in the sentencing process so as to diminish its sense of responsibility for the capital sentencing decision. Such evidence was not false at the time it was admitted and did not even pertain to the jury's sentencing role. The trial court's instructions, moreover, emphasized the importance of that role and never conveyed or intimated that the jury could shift its responsibility in sentencing. Pp. 4–12.

(b) Although the evidence in question may have been irrelevant, the jury's consideration of it did not render the sentencing proceeding so unreliable that it violated the Eighth Amendment under *Lockett* v. *Ohio,* 438 U. S. 586, 604 (plurality

opinion), and *Woodson* v. *North Carolina,* 428 U. S. 280, 305. That the evidence may have been irrelevant as a matter of state law does not render its admission federal constitutional error. See *Estelle* v. *McGuire,* 502 U. S. ___, ___. *Dawson* v. *Delaware,* 503 U. S. ___, ___, and *Zant* v. *Stephens,* 462 U. S. 862, 885, are plainly inapposite, since petitioner does not argue that admission of the evidence allowed the jury to consider, in aggravation, constitutionally protected conduct. *Johnson* v. *Mississippi,* 486 U. S. 578, 586, 590, n. 8, is also inapposite, since it is perfectly consistent with the Court of Criminal Appeals' approach and does not stand for the proposition that the mere admission of irrelevant and prejudicial evidence requires the overturning of a death sentence. This Court declines petitioner's request to fashion a federal code of general evidentiary rules, under the guise of interpreting the Eighth Amendment, which would supersede state rules in capital sentencing proceedings. Pp. 8–10.

(c) Introduction of the evidence in question did not so infect the trial with unfairness as to render the jury's imposition of the death penalty a denial of due process under the analytical framework set forth in *Donnelly* v. *DeChristoforo,* 416 U. S. 637, 643. Presuming that the trial court's instructions were followed, they did not offer the jurors any means by which to give effect to the irrelevant evidence of petitioner's prior sentence, and the relevant evidence presented by the State was sufficient to justify the imposition of the death sentence in this case. Even assuming that the jury disregarded its instructions and allowed the irrelevant evidence to influence its decision, a finding of fundamental unfairness on the basis of this record would be an exercise in speculation, rather than reasoned judgment, since it seems equally plausible that the evidence in question could have influenced the jurors either to impose, or not to impose, the death sentence. Pp. 10–12.

847 P. 2d 368, affirmed.

REHNQUIST, C. J., delivered the opinion of the Court, in which O'CONNOR, SCALIA, KENNEDY, and THOMAS, JJ., joined. O'CONNOR, J., filed a concurring opinion. BLACKMUN, J., filed a dissenting opinion. GINSBURG, J., filed a dissenting opinion, in which BLACKMUN, STEVENS, and SOUTER, JJ., joined.