

1 In *Schlup v. Delo*, the Supreme Court explained that a petitioner must submit reliable
2 evidence not presented at trial to circumvent AEDPA’s statute of limitations. 513 U.S. 298, 316
3 (1995). The evidence must be significant: “A petitioner’s burden at the gateway stage is to
4 demonstrate that more likely than not, in light of the new evidence, no reasonable juror would
5 find him guilty beyond a reasonable doubt — or, to remove the double negative, that more likely
6 than not any reasonable juror would have reasonable doubt.” *House v. Bell*, 547 U.S. 518, 538
7 (2006).

8 Petitioner cannot meet his heavy burden. First, this Court has some direct evidence that a
9 reasonable person would not harbor reasonable doubt in light of the new evidence. Petitioner
10 ventilated his new evidence before a state court judge in a full evidentiary hearing. The judge
11 considered Petitioner’s experts’ testimonies (which he reasonably discredited) as well as the
12 State’s experts and found insufficient cause to vacate the conviction. These findings are some
13 evidence that the testimonies of Petitioner’s new experts would not cause *any* reasonable juror to
14 harbor reasonable doubt.

15 Moreover, the Ninth Circuit has already determined that the kind of evidence Petitioner
16 introduced is insufficient. The Ninth Circuit has found that new evidence creating a conflict of
17 medical opinion is insufficient to access the *Schlup* gateway. *Jones v. Taylor*, 763 F.3d 1242,
18 1247 (9th Cir. 2014); *Jackson v. Calderon*, 211 F.3d 1148, 1165 (9th Cir. 2000). And
19 Petitioner’s new evidence — testimonies from forensic pathologists that disagree with the expert
20 opinions of other qualified experts — does nothing more than create such a difference of medical
21 opinion.
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1 Therefore, Petitioner has not shown that, more likely than not, any reasonable juror
2 would have reasonable doubt about his guilt in this case under the light of the new evidence he
3 has presented. Accordingly, Petitioner cannot present his time-barred habeas claims.
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5 Dated: April 28, 2015
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8 A rectangular orange box containing a handwritten signature in blue ink. The signature appears to read "Stephen V. Wilson". A horizontal line is drawn across the bottom of the signature.

9 STEPHEN V. WILSON

10 United States District Judge
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