

UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF
CALIFORNIA

O'Neil v. Burton

No. 2:18-cv-00858 KJM AC (E.D. Cal. Mar. 15, 2023) · No. 2:18-cv-00858 KJM AC · Decided March 16, 2023

SUMMARY

The United States District Court for the Eastern District of California recommends denying Terrence O’Neil’s petition for a writ of habeas corpus under 28 U.S.C. § 2254. The document rejects challenges to the jury instruction concerning personal infliction of great bodily injury in a group assault and to the sufficiency of the evidence supporting that enhancement. The magistrate judge also recommends denying a certificate of appealability.

CASE DETAILS

COURT	United States District Court for the Eastern District of California
WRITING FOR THE COURT	Allison Claire
JURISDICTION	United States District Court for the Eastern District of California
DECIDED	March 16, 2023
DOCKET	2:18-cv-00858 KJM AC
DISPOSITION	other
PROCEDURAL POSTURE	State prisoner sought federal habeas relief under 28 U.S.C. § 2254, challenging the jury instruction and evidentiary sufficiency supporting great-bodily-injury enhancements. The magistrate judge issued findings and recommendations that the petition be denied and that no certificate of appealability issue.
STANDARD OF REVIEW	Under AEDPA, relief is unavailable unless the state-court adjudication was contrary to, or an unreasonable application of, clearly established Supreme Court law, or was based on an unreasonable determination of the facts. Jury-instruction claims are reviewed for whether the instruction so infected the entire trial as to violate due process, considering the instructions and trial record as a whole. Sufficiency claims are reviewed under Jackson v. Virginia, with deference to the jury's verdict and additional deference under AEDPA.
PRECEDENTIAL VALUE	nonprecedential

PARTIES

Terrence O'Neil v. Robert Burton, Warden

TOPICS

federal habeas corpus

post-conviction relief

jury instructions

due process

criminal procedure

PRACTICE AREAS

Federal habeas corpus

Post-conviction relief

Criminal procedure

Constitutional law

QUESTIONS PRESENTED

1. Whether CALCRIM No. 3160, concerning personal infliction of great bodily injury during a group beating, improperly reduced the prosecution's burden of proof or otherwise violated due process.
2. Whether sufficient evidence supported the jury's finding that O'Neil personally inflicted great bodily injury within the meaning of California Penal Code § 12022.7.

HOLDINGS

1. The state court's rejection of O'Neil's challenge to CALCRIM No. 3160 was not contrary to or an unreasonable application of clearly established federal law. The instruction properly required personal participation and force sufficient, alone or in combination with other assailants' force, to cause great bodily injury.
2. The state court reasonably concluded that sufficient evidence supported the enhancement because O'Neil actively and directly participated in the group beating by punching and restraining Washington, and his force was sufficient in combination with the other assailant's force to cause the injury.

KEY QUOTATIONS

“Erroneous jury instructions do not support federal habeas relief unless the infirm instruction so infected the entire trial that the resulting conviction violates due process.” (at 5)

“Accordingly, Section 2254(d) bars federal habeas relief.” (at 8)

FACTUAL BACKGROUND

During a group assault in a grocery-store parking lot, O'Neil punched and restrained store manager Keith Washington while another assailant punched and kicked him. O'Neil also rifled through Washington's pockets and attempted to take his keys while the assault continued. The other assailant kicked Washington in the face, causing catastrophic injury to his right eye, and Washington ultimately lost vision in that eye. The jury found O'Neil guilty of robbery and assault and found true great-bodily-injury enhancements.

PROCEDURAL HISTORY

O'Neil was convicted in Sacramento County of robbery, felony assault, and simple battery and received an aggregate fourteen-year sentence. The California Court of Appeal affirmed the conviction but remanded for

resentencing because the trial court improperly stayed certain counts; the California Supreme Court denied review. O'Neil then filed this § 2254 petition, which the magistrate judge recommended denying.

DISPOSITION

other

CASES CITED

- Harrington v. Richter, 562 U.S. 86, 99-100 (2011)
- Harris v. Reed, 489 U.S. 255, 265 (1989)
- Lockyer v. Andrade, 538 U.S. 63, 71-72 (2003)
- Marshall v. Rodgers, 569 U.S. 58, 64 (2013)
- Williams v. Taylor, 529 U.S. 362, 405, 407-08 (2000)
- Wiggins v. Smith, 539 U.S. 510, 520-21 (2003)
- Cullen v. Pinholster, 563 U.S. 170, 180-82 (2011)
- Frantz v. Hazey, 533 F.3d 724, 738 (9th Cir. 2008) (en banc)
- Wright v. Van Patten, 552 U.S. 120, 125-26 (2008) (per curiam)
- Estelle v. McGuire, 502 U.S. 62, 71-73 (1991)
- Donnelly v. DeChristoforo, 416 U.S. 637, 643 (1974)
- Waddington v. Sarausad, 555 U.S. 179, 190-91 (2009)
- In re Winship, 397 U.S. 358, 364 (1970)
- Ylst v. Nunnemaker, 501 U.S. 797 (1991)
- Ortiz v. Yates, 704 F.3d 1026, 1034 (9th Cir. 2012)
- People v. Cole, 31 Cal. 3d 568, 579 (1982)
- People v. Rodriguez, 69 Cal. App. 4th 341, 347 (1999)
- People v. Modiri, 39 Cal. 4th 481, 484, 493-94, 496, 500-01 (2006)
- People v. Dunkerson, 155 Cal. App. 4th 1413, 1418 (2007)
- People v. Avila, 46 Cal. 4th 680, 701 (2009)
- People v. Lindberg, 45 Cal. 4th 1, 27 (2008)
- People v. Dominick, 182 Cal. App. 3d 1174, 1210-11 (1986)
- Cavazos v. Smith, 565 U.S. 1, 2 (2011)
- Boyer v. Belleque, 659 F.3d 957, 964 (9th Cir. 2011)
- Martinez v. Ylst, 951 F.2d 1153 (9th Cir. 1991)

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