

UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF  
CALIFORNIA

**Gaddy v. Horn**

No. 1:25-cv-0490 JLT SKO (HC), United States District Court for the Eastern District of California (June 12, 2025)

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**SUMMARY**

The United States District Court for the Eastern District of California adopted the magistrate judge’s findings and recommendations and dismissed Michael Gaddy’s 28 U.S.C. § 2254 petition with prejudice. The court concluded that his claim concerning the timing of a California parole suitability hearing did not support federal habeas relief and declined to issue a certificate of appealability.

**OPINION**

1 2 3 4 5 6 7 8 UNITED STATES DISTRICT COURT 9 EASTERN DISTRICT OF  
CALIFORNIA 10 11 MICHAEL GADDY, Case No. 1:25-cv-0490 JLT SKO (HC) 12 Petitioner,  
ORDER ADOPTING FINDINGS AND RECOMMENDATIONS, DISMISSING THE 13 v.  
PETITION WRIT OF HABEAS CORPUS, AND DIRECTING CLERK OF COURT TO 14  
ENTER JUDGMENT AND CLOSE CASE 15 P. HORN, (Doc. 5) 16 Respondent. ORDER  
DECLINING TO ISSUE CERTIFICATE OF APPEALABILITY 17 18 Michael Gaddy is a state  
prisoner proceeding pro se and in forma pauperis with a petition 19 for writ of habeas corpus  
pursuant to 28 U.S.C. § 2254, asserting that has not yet received a 20 parole suitability hearing  
pursuant to California law, in violation of his due process rights.

(See 21 generally Doc. 1.) The magistrate judge performed a preliminary review of the petition  
pursuant 22 to Rule 4 of the Rules Governing Section 2254 Cases and found Petitioner’s “claim  
does not 23 sound in habeas and is clearly frivolous.” (Doc. 5 at 2.)

The magistrate judge observed, “Under 24 California law, Petitioner’s minimum term of  
imprisonment before eligibility for parole is 32 25 years from 2007, i.e., 2039.” (Id. at 3.) Towards  
that end, the magistrate judge found the 26 assertion that Petitioner was unconstitutionally denied  
parole was “duplicitous and clearly without 27 merit.” (Id.)

Therefore, the magistrate judge recommended the Court summarily dismiss the 28 petition with  
prejudice. (Id. at 4.) 1 The Court served the Findings and Recommendations on Petitioner and  
notified him that 2 any objections were due within 21 days. (Doc. 5.)

The Court advised him that the “failure to file 3 objections within the specified time may result in  
the waiver of rights on appeal.” (Id., citing 4 *Wilkerson v. Wheeler*, 772 F.3d 834, 838-39 (9th Cir.

2014).) Petitioner did not file objections, 5 and the time to do so has passed. 6 According to 28 U.S.C. § 636(b)(1), this Court performed a de novo review of this case.

7 Having carefully reviewed the matter, the Court concludes the Findings and Recommendations 8 are supported by the record and proper analysis. In addition, the Court declines to issue a 9 certificate of appealability. 10 A state prisoner seeking a writ of habeas corpus does not have an absolute entitlement to 11 appeal the denial of his petition, and an appeal is only allowed in certain circumstances.

Miller- 12 *El v. Cockrell*, 537 U.S. 322, 335-336 (2003). If a court denies a petition, it may only issue a 13 certificate of appealability when a petitioner makes a substantial showing of the denial of a 14 constitutional right. 28 U.S.C. § 2253(c)(2).

To make a substantial showing, the petitioner must 15 establish that “reasonable jurists could debate whether (or, for that matter, agree that) the petition 16 should have been resolved in a different manner or that the issues presented were ‘adequate to 17 deserve encouragement to proceed further.’” *Slack v. McDaniel*, 529 U.S. 473, 484 (2000) 18 (quoting *Barefoot v. Estelle*, 463 U.S. 880, 893 (1983)).

In the present case, Petitioner did not 19 make the required substantial showing of the denial of a constitutional right to justify the issuance 20 of a certificate of appealability. Reasonable jurists would not find the Court’s determination that 21 Petitioner is not entitled to federal habeas corpus relief debatable, wrong, or deserving of 22 encouragement to proceed further.

Based upon the foregoing, the Court ORDERS: 23 1. The Findings and Recommendations issued on May 12, 2025 (Doc. 5) are 24 ADOPTED in full. 25 2. The petition for writ of habeas corpus is DISMISSED with prejudice. 26 3.

The Clerk of Court is directed to enter judgment and close the case. 27 4. The Court declines to issue a certificate of appealability. 28 /// 1 This order terminates the action in its entirety. 2 3 IT IS SO ORDERED. 4] Dated: \_ June 12, 2025 Charis [Tourn TED STATES DISTRICT JUDGE 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25 26 27 28