

**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)

OPINION

(HC) Gaddy v. Horn

PER CURIAM.

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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 “duplicious 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 certificate of appealability. A state prisoner seeking a writ of habeas corpus does not have an absolute entitlement to appeal the denial of his petition, and an appeal is only allowed in certain circumstances. *Miller-El v. Cockrell*, 537 U.S. 322, 335-336 (2003). If a court denies a petition, it may only issue a certificate of appealability when a petitioner makes a substantial showing of the denial of a constitutional right. 28 U.S.C. § 2253(c)(2). To make a substantial showing, the petitioner must establish that “reasonable jurists could debate whether (or, for that matter, agree that) the petition should have been resolved in a different manner or that the issues presented were ‘adequate to deserve encouragement to proceed further.’” *Slack v. McDaniel*, 529 U.S. 473, 484 (2000) (quoting *Barefoot v. Estelle*, 463 U.S. 880, 893 (1983)). In the present case, Petitioner did not make the required substantial showing of the denial of a constitutional right to justify the issuance of a certificate of appealability. Reasonable jurists would not find the Court’s determination that Petitioner is not entitled to federal habeas corpus relief debatable, wrong, or deserving of encouragement to proceed further. Based upon the foregoing, the Court ORDERS: 1. The Findings and Recommendations issued on May 12, 2025 (Doc. 5) are ADOPTED in full. 2. The petition for writ of habeas corpus is DISMISSED with prejudice. 3. The Clerk of Court is directed to enter judgment and close the case. 4. The Court declines to issue a certificate of appealability. /// 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

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