

**UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF
CALIFORNIA**

Richard Anthony Garza v. Steve Smith

Garza v. Smith · No. 1:24-cv-1500 JLT EPG · Decided August 18, 2025

SUMMARY

The United States District Court for the Eastern District of California adopted in full the magistrate judge’s findings and recommendations concerning Richard Anthony Garza’s 28 U.S.C. § 2254 habeas petition. The court granted the respondent’s motion to dismiss, dismissed the petition as noncognizable and otherwise deficient, and directed the clerk to close the case.

OPINION

1 2 3 4 5 6 7 8 UNITED STATES DISTRICT COURT 9 EASTERN DISTRICT OF
CALIFORNIA 10 11 RICHARD ANTHONY GARZA,) Case No.: 1:24-cv-1500 JLT EPG) 12
Petitioner,) ORDER ADOPTING IN FULL THE FINDINGS) AND RECOMMENDATIONS,
GRANTING 13 v.) RESPONDENT’S MOTION TO DISMISS,) DISMISSING THE
PETITION, AND DIRECTING 14 STEVE SMITH,) THE CLERK OF COURT TO CLOSE THE
CASE) 15 Respondent.) (Docs.

11, 13)) 16 17 Richard Anthony Garza seeks to proceed with a petition for writ of habeas corpus
pursuant to 18 28 U.S.C. § 2254, challenging the admission of evidence—particularly, transcripts
from his parole 19 suitability hearing—at his resentencing hearing. He also asserts that he
received ineffective assistance 20 of counsel at the hearing. (Doc. 1.) Respondent moved to
dismiss the petition, asserting Petitioner 21 “fails to state a cognizable federal claim.” (Doc.

11 at 1.) 22 The magistrate judge found that “Petitioner’s challenge to the admission of his parole
suitability 23 hearing transcripts at his resentencing proceedings is not cognizable in federal
habeas corpus.” (Doc. 24 13 at 3, citing *Juarez v. Campbell*, 2023 WL 6170341, at *3 (C.D. Cal.
Aug. 7, 2023), adopted 2023 25 WL 6216707 (C.D. Cal. Sept. 25, 2023).

The magistrate judge also determined that Petitioner’s claim 26 of ineffective assistance of
counsel was moot and unexhausted. (Id. at 4.) Moreover, the magistrate 27 judge observed there is
not a federal constitutional right to counsel “in state post-conviction 28 proceedings,” and as a
result Petitioner could not state a cognizable claim related to ineffective 1 || assistance of counsel
at the resentencing hearing. (Id., citing *Coleman v. Thompson*, 501 U.S. 722, 7: 2 ||(1991).)

Therefore, the magistrate judge recommended the Court grant Respondent’s motion to 3 || dismiss.
Cd.) 4 The Court served the Findings and Recommendations on the parties and notified Petitioner

th. 5 || any objections were due within 30 days. (Doc. 13 at 4.)

The Court advised Petitioner that the “failur 6 || to file objections within the specified time may waive the right to appeal the District Court’s order.” 7 || Ud. at 5, citing *Wilkerson v. Wheeler*, 772 F.3d 834, 838-39 (9th Cir. 2014).) Petitioner did not file 8 || objections, and the time to do so has passed. 9 According to 28 U.S.C. § 636(b)(1), this Court performed a de novo review of this case.

10 || Having carefully reviewed the matter, the Court concludes the Findings and Recommendations are 11 || supported by the record and proper analysis. Thus, the Court ORDERS: 12 1. The Findings and Recommendations dated July 7, 2025 (Doc. 13) are ADOPTED in 13 full. 14 2. Respondent’s motion to dismiss (Doc. 11) is GRANTED. 15 3.

The petition for writ of habeas corpus (Doc. 1) is DISMISSED. 16 4. The Clerk of Court is directed to close this case. 17 18 IS SO ORDERED. 19 || Dated: _ August 18, 2025 (LAW ph L. wan 20 TED STATES DISTRICT JUDGE 21 22 23 24 25 26 27 28