

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

OPINION

(HC) Garza v. Smith

PER CURIAM.

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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. (/d., 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
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