

UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF
CALIFORNIA

Alexander R. Soto v. Ken Clark

Soto v. Clark · No. 1:21-cv-0691 JLT HBK (HC) · Decided March 7, 2025

SUMMARY

The United States District Court for the Eastern District of California adopted the magistrate judge’s findings and recommendations and denied Alexander R. Soto’s petition for a writ of habeas corpus under 28 U.S.C. § 2254. The court rejected claims concerning the right to present a defense and testify, jury instructions on vehicular manslaughter, and the right to a complete defense. The court declined to issue a certificate of appealability and directed the clerk to close the case.

CASE DETAILS

COURT	United States District Court for the Eastern District of California
JURISDICTION	United States District Court for the Eastern District of California
DECIDED	March 7, 2025
DOCKET	1:21-cv-0691 JLT HBK (HC)
DISPOSITION	dismissed
PROCEDURAL POSTURE	Petitioner sought federal habeas relief under 28 U.S.C. § 2254. The district court reviewed the magistrate judge's findings and recommendations de novo after petitioner failed to file timely objections, adopted the findings and recommendations, denied the petition, declined to issue a certificate of appealability, and ordered the case closed.
STANDARD OF REVIEW	Under 28 U.S.C. § 636(b)(1), the district court conducted de novo review of the magistrate judge's findings and recommendations. For the habeas claims, relief was unavailable unless the state-court decision was contrary to, or involved an unreasonable application of, clearly established federal law as determined by the United States Supreme Court, or was based on an unreasonable determination of the facts. Any trial-court error regarding the challenged question was reviewed for harmlessness under whether it had a substantial and injurious effect or influence on the verdict.
PRECEDENTIAL VALUE	unpublished and nonprecedential district court order

PARTIES

Alexander R. Soto v. Ken Clark

TOPICS

federal habeas corpus

post-conviction relief

appellate procedure

constitutional law

standard of review

PRACTICE AREAS

federal habeas corpus

post-conviction relief

constitutional law

appellate procedure

QUESTIONS PRESENTED

1. Whether the state trial court violated Soto's Sixth Amendment right to present a defense and testify by sustaining an objection to a question during his testimony.
2. Whether the failure to instruct on vehicular manslaughter as a lesser included offense warranted federal habeas relief.
3. Whether the failure to instruct on vehicular manslaughter deprived Soto of a complete defense.
4. Whether a certificate of appealability should issue.

HOLDINGS

1. The petition did not establish that the state court's rejection of Soto's claim was contrary to, or an unreasonable application of, clearly established federal law, or rested on an unreasonable determination of the facts. Soto had an opportunity to testify and present a full defense, and any error in sustaining the objection did not have a substantial and injurious effect or influence on the verdict.
2. The claim concerning the failure to give a vehicular-manslaughter instruction did not warrant federal habeas relief because Soto could not show that the state court's decision was contrary to clearly established federal law, and the federal court was bound by the state court's determination of state-law instructional requirements.
3. The claim was not cognizable on federal habeas review because there is no federal constitutional right to jury instructions on lesser included offenses in noncapital cases, much less a right to instructions on lesser related offenses, and no clearly established federal law supported Soto's asserted right to an instruction as part of his complete-defense right.
4. A certificate of appealability should not issue because reasonable jurists would not find the denial of the petition debatable or wrong and Soto failed to make a substantial showing of the denial of a constitutional right.

KEY QUOTATIONS

“Ground Three was “not cognizable on federal habeas review” because “there is not a federal constitutional right to instructions on lesser included offenses in non-capital cases, and even less of a right to instructions on lesser related offenses.”” (2)

“reasonable jurists would not find the Court’s denial of the petition debatable or wrong, or that the issues presented are deserving of encouragement to proceed further.” (3)

FACTUAL BACKGROUND

Soto was convicted in state court and petitioned for federal habeas relief based on an objection sustained during his testimony and the state trial court's failure to instruct the jury on vehicular manslaughter. The challenged testimony concerned whether Soto thought someone could get hurt while he was driving. The state courts rejected his claims, and the federal magistrate judge concluded that Soto had the opportunity to testify and present a full defense, that any evidentiary error was harmless, and that the jury-instruction claims did not warrant federal habeas relief.

PROCEDURAL HISTORY

Soto filed a § 2254 petition challenging aspects of his state criminal trial, including an alleged restriction on his testimony and the failure to instruct the jury on vehicular manslaughter. The magistrate judge recommended denial after concluding the claims were meritless or not cognizable under federal habeas law. After granting multiple extensions, the court-directed deadline for objections expired without objections, and the district court conducted de novo review and adopted the recommendations in full.

DISPOSITION

dismissed

CASES CITED

- Bradshaw v. Richey, 546 U.S. 74, 76 (2005)
- Hopkins v. Reeves, 524 U.S. 88 (1998)
- Miller-El v. Cockrell, 537 U.S. 322, 335-36 (2003)
- Wilkerson v. Wheeler, 772 F.3d 834, 839 (9th Cir. 2014)

OPINION

(HC) Soto v. Clark

PER CURIAM.

1 2 3 4 5 6 7

8 UNITED STATES DISTRICT COURT

9 EASTERN DISTRICT OF CALIFORNIA

10 11 ALEXANDER R. SOTO,) Case No.: 1:21-cv-0691 JLT HBK (HC)) 12 Petitioner,)

ORDER ADOPTING THE FINDINGS AND

) RECOMMENDATIONS, DENYING PETITION

13 v.) FOR WRIT OF HABEAS CORPUS,

) DIRECTING CLERK OF COURT TO CLOSE

14 KEN CLARK,) CASE, AND DECLINING TO ISSUE

) CERTIFICATE OF APPEALABILITY

15 Respondent.)) (Docs. 1, 17) 16) 17 Alexander R. Soto is a state prisoner proceeding pro se with his petition for writ of habeas corpus pursuant to 28 U.S.C. § 2254, raising grounds for relief related to: (1) Petitioner's sixth amendment right to present his defense and testify on his own behalf due to an objection sustained during his testimony, (2) the trial court's failure to instruct on vehicular manslaughter as a lesser included offense to murder, and (3) inability to present a complete defense due to the trial court's failure to instruct on vehicular manslaughter. (See generally Doc. 1 at 9-20.) The magistrate judge observed that Petitioner raised each ground on direct appeal, and found each ground was exhausted. (Doc. 22 at 10.) The magistrate judge found that Petitioner was "not entitled to relief on Ground One," because the record demonstrated "Petitioner had the opportunity to testify and put on a full defense." (Doc. 22 at 17.) The magistrate judge determined any error by the trial court in sustaining the prosecution's objection to a question posed to Petitioner on direct examination—as to whether Petitioner thought someone could get hurt while he was driving—was a harmless error and "did not have a substantial and injurious effect or influence the jury's verdict." (Id. at 15; see also id. at 10-17.) The magistrate judge determined the state's "denial of Petitioner's claim was neither contrary to, nor an unreasonable application of, clearly established federal law as determined by the United States Supreme Court nor based on an unreasonable determination of the facts in light of the evidence presented." (Id. at 17.) The magistrate judge also found Grounds Two and Three in the petition, related to jury instructions, were "without merit." (Doc. 22 at 20, 22; see id. at 17-22.) As an initial matter, the magistrate judge found "this Court is bound by the state court's conclusion that the vehicular manslaughter instruction was not required under state law." (Id. at 18, citing *Bradshaw v. Richey*, 546 U.S. 74, 76 (2005).) In addition, the magistrate judge agreed with Respondent that "Ground Two fails to state a cognizable federal habeas claim because Petitioner cannot show that the state court's decision was contrary to clearly established federal law." (Id. at 20.) Similarly, the magistrate judge found Ground Three was "not cognizable on federal habeas review" because "there is not a federal constitutional right to instructions on lesser included offenses in non-capital cases, and even less of a right to instructions on lesser related offenses." (Id. at 21, citing *Hopkins v. Reeves*, 524 U.S. 88 (1998).) The magistrate judge explained, "[b]ecause no clearly established Federal law exists to support the proposition that Petitioner's right to a complete defense includes the right to a jury instruction, relief is unavailable under AEDPA." (Id. at 22.) The magistrate judge also considered whether the Court should issue a certificate of appealability. (Doc. 22 at 22.) The magistrate judge observed, "[a] petitioner seeking a writ of habeas corpus has no absolute entitlement to appeal; he may appeal only in limited circumstances." (Id., citing 28 U.S.C. § 2253, *Miller-El v. Cockrell*, 537 U.S. 322, 335-36 (2003).) The magistrate judge also noted the Court will not issue a certificate of appealability "unless a petitioner makes 'a substantial showing of the denial of a constitutional right.'" (Id., 26 quoting 28 U.S.C. § 2253(c)(2).) Because Petitioner did not carry this burden to

make a 27 substantial showing of the denial of a constitutional right, the magistrate judge recommended the 28 Court decline to issue a certificate of appealability. (Id.) 1 The Court served the Findings and Recommendations upon Petitioner and informed 2 | Petitioner that the “failure to file objections within the specified time may result in the waiver of 3 | certain rights on appeal.” (Doc. 22 at 22-23, citing *Wilkerson v. Wheeler*, 772 F.3d 834, 839 (9th 4 | Cir. 2014).) The Court granted several extensions of time for Petitioner to file objections— 5 | totalling more than five months—and ordered Petitioner to submit any objections “no later than 6 | February 24, 2025.” (Doc. 33 at 2 [emphasis omitted]; see also Docs. 25, 27, 29, 31, 33.) 7 | Petitioner did not file objections by the deadline ordered, and the time to do so has expired. 8 According to 28 U.S.C. § 636(b)(1), this Court performed a de novo review of this case. 9 | Having carefully reviewed the matter, the Court concludes the Findings and Recommendations 10 | are supported by the record and proper analysis. In addition, reasonable jurists would not find the 11 Court’s denial of the petition debatable or wrong, or that the issues presented are deserving of 12 | encouragement to proceed further. As the magistrate judge found, Petitioner did not make the 13 || required substantial showing of the denial of a constitutional right. Thus, the Court ORDERS: 14 1. The Findings and Recommendations issued on September 4, 2024 (Doc. 22) are 15 ADOPTED in full. 16 2. The petition for writ of habeas corpus (Doc. 1) is DENIED. 17 3. The Court declines to issue a certificate of appealability. 18 4. The Clerk of Court is directed to close the case. 19 20 IT IS SO ORDERED. 21 | Dated: _Mareh 7, 2025 Charis [Tourn
TED STATES DISTRICT JUDGE
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