

UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF
CALIFORNIA

Cervantes v. Campbell

Cervantes v. Campbell · No. 1:22-cv-00175-KES-SKO (HC) · Decided May 15, 2025

SUMMARY

The United States District Court for the Eastern District of California adopted the magistrate judge’s findings and recommendations and denied Carlos Cervantes’s 28 U.S.C. § 2254 habeas petition with prejudice. The court declined to issue a certificate of appealability, directed entry of judgment, and ordered the case closed.

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	May 15, 2025
DOCKET	1:22-cv-00175-KES-SKO (HC)
DISPOSITION	dismissed
PROCEDURAL POSTURE	Federal habeas corpus petition under 28 U.S.C. § 2254; the district court reviewed and adopted a magistrate judge's findings and recommendations after conducting de novo review of the petitioner's objections.
STANDARD OF REVIEW	The district court conducted de novo review under 28 U.S.C. § 636(b) (1) of the magistrate judge's findings and recommendations to which objections were made. Under AEDPA, habeas relief was available only if the state court's adjudication resulted in a decision contrary to, or involving an unreasonable application of, clearly established federal law as determined by the Supreme Court.
PRECEDENTIAL VALUE	Unknown
PARTIES	Carlos Cervantes v. Tammy Campbell, Acting Warden

TOPICS

- federal habeas corpus
- post-conviction relief
- due process
- criminal procedure

PRACTICE AREAS

QUESTIONS PRESENTED

1. Whether the state court's refusal to apply amendments to California Penal Code § 859.5 retroactively violated clearly established federal due process law under AEDPA.
2. Whether the petitioner was entitled to a certificate of appealability after denial of the habeas petition on the merits.

HOLDINGS

1. Habeas relief was unavailable because the petitioner did not show that the state court's decision was contrary to, or an unreasonable application of, clearly established federal law as determined by the Supreme Court.
2. A certificate of appealability was denied because reasonable jurists would not find the denial of the petition debatable or wrong and the petitioner had not made a substantial showing of the denial of a constitutional right.

KEY QUOTATIONS

“A court reviewing a federal habeas petition is bound by the strictures of AEDPA, and as such, a court may not grant a writ of habeas corpus unless the state court’s adjudication of the claim “resulted in a decision that was contrary to, or involved an unreasonable application of, clearly established Federal law, as determined by the Supreme Court of the United States.”” (at 2)

“if “[n]o holding of [the Supreme Court] required the California Court of Appeal to apply [the petitioner’s proffered test], [it cannot be said that] the state court’s decision was [] contrary to or an unreasonable application of clearly established federal law.”” (at 2)

“if court denies a habeas petition on the merits, the court may only issue a certificate of appealability “if jurists of reason could disagree with the district court’s resolution of [the petitioner’s] constitutional claims or that jurists could conclude the issues presented are adequate to deserve encouragement to proceed further.”” (at 3)

FACTUAL BACKGROUND

Cervantes, a California state prisoner, challenged the state court's refusal to apply retroactively amendments to California Penal Code § 859.5, which requires custodial interrogations to be recorded. The California Court of Appeal adjudicated the claim on the merits. Cervantes argued that the refusal violated due process, but acknowledged that the Supreme Court had not expressly held that retroactive application of such statutes is mandatory.

PROCEDURAL HISTORY

Cervantes filed a state-prisoner habeas petition under 28 U.S.C. § 2254. On August 12, 2024, the assigned magistrate judge recommended denying the petition on the merits. Cervantes objected, but the district court

found the objections unpersuasive, adopted the findings and recommendations in full, denied habeas relief with prejudice, directed entry of judgment and closure of the case, and declined to issue a certificate of appealability.

DISPOSITION

dismissed

CASES CITED

- People v. Cervantes, 55 Cal. App. 5th 927 (Cal. Ct. App. 2020)
- Carey v. Musladin, 549 U.S. 70, 77 (2006)
- Miller-El v. Cockrell, 537 U.S. 322, 327, 335-336, 338 (2003)
- Slack v. McDaniel, 529 U.S. 473, 484 (2000)

OPINION

(HC) Cervantes v. Pfeiffer

PER CURIAM.

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8 UNITED STATES DISTRICT COURT

9 EASTERN DISTRICT OF CALIFORNIA

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11 CARLOS CERVANTES, No. 1:22-cv-00175-KES-SKO (HC)

12 Petitioner, ORDER ADOPTING FINDINGS AND

RECOMMENDATIONS, DENYING

13 PETITION FOR WRIT OF HABEAS

CORPUS WITH PREJUDICE, DECLINING

14 v. TO ISSUE CERTIFICATE OF

APPEALABILITY, AND DIRECTING

15 CLERK OF COURT TO ENTER JUDGMENT

AND CLOSE CASE

16 TAMMY CAMPBELL, Acting Warden, (Doc. 45) 17 Respondent. 18 19 20 Petitioner Carlos
Cervantes is a state prisoner proceeding with a petition for writ of habeas 21 corpus pursuant to 28
U.S.C. § 2254. This matter was referred to a United States Magistrate 22 Judge pursuant to 28
U.S.C. § 636(b)(1)(B) and Local Rule 302. 23 On August 12, 2024, the assigned magistrate judge
issued findings and recommendations 24 to deny the petition on its merits. Doc. 45. Those
findings and recommendations were served 25 upon all parties and contained notice that any
objections thereto were to be filed within thirty (30) 26 days after service. On September 4, 2024,
petitioner filed objections to the findings and 27 recommendations. Doc. 46. Respondent did not
file a reply. 28 In accordance with the provisions of 28 U.S.C. § 636(b)(1), the Court has
conducted a de 1 novo review of the case. Having carefully reviewed the entire file, including

petitioner's 2 objections, the Court concludes that the magistrate judge's findings and recommendations are 3 supported by the record and proper analysis. 4 All but one of petitioner's objections either repeat arguments already made in his petition 5 or fail to meaningfully grapple with the conclusions of the findings and recommendations. See

6 Doc. 46 at 4–10. Petitioner's objections as to his first claim argue that his Due Process rights 7 were violated because the state court did not retroactively apply amendments to California Penal 8 Code § 859.5, which requires that custodial interrogations be recorded. Doc. 21 ¶¶ 23–26. The 9 state court adjudicated this claim on the merits. See *People v. Cervantes*, 55 Cal. App. 5th 927 10 (Cal. Ct. App. 2020). Petitioner's claim is plainly foreclosed by the fact that, as he concedes, "the 11 Supreme Court has not explicitly held that applying statutes retroactively is mandatory"

12 Doc. 46 at 2. A court reviewing a federal habeas petition is bound by the strictures of AEDPA, 13 and as such, a court may not grant a writ of habeas corpus unless the state court's adjudication of 14 the claim "resulted in a decision that was contrary to, or involved an unreasonable application of, 15 clearly established Federal law, as determined by the Supreme Court of the United States." 28 16 U.S.C. § 2254(d)(1). As the Supreme Court has explained, if "[n]o holding of [the Supreme 17 Court] required the California Court of Appeal to apply [the petitioner's proffered test], [it cannot 18 be said that] the state court's decision was [] contrary to or an unreasonable application of clearly 19 established federal law." *Carey v. Musladin*, 549 U.S. 70, 77 (2006). The cases cited by 20 petitioner, which show that in some instances, the Supreme Court has applied various statutes 21 retroactively, do not show that the Supreme Court has ever required a state court to apply a state 22 criminal procedure statute retroactively, and they do not show that the Supreme Court has found a 23 due process violation based on a state court's failure to do so. See Doc. 46 at 3–4. Accordingly, 24 as the findings and recommendations conclude, habeas relief should be denied. 25 Having found that petitioner is not entitled to habeas relief, the Court now turns to 26 whether a certificate of appealability should issue. A petitioner seeking a writ of habeas corpus 27 has no absolute entitlement to appeal a district court's denial of his petition, and an appeal is 28 allowed only in certain circumstances. *Miller-El v. Cockrell*, 537 U.S. 322, 335-336 (2003). If a

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1 | court denies a habeas petition on the merits, the court may only issue a certificate of appealability "if 2 | jurists of reason could disagree with the district court's resolution of [the petitioner's] constitutional 3 | claims or that jurists could conclude the issues presented are adequate to deserve encouragement to 4 | proceed further." *Miller-El*, 537 U.S. at 327; *Slack v. McDaniel*, 529 U.S. 473, 484 (2000). While the 5 || petitioner is not required to prove the merits of his case, he must demonstrate "something more than 6 | the absence of frivolity or the existence of mere good faith on his. . . part." *Miller-El*, 537 U.S. at 7 | 338. 8 In the present case, the Court finds that reasonable jurists would not find the Court's 9 | determination that the petition should be denied debatable or wrong, or that the issues presented 10 | deserve encouragement to proceed

further. Petitioner has not made the required substantial showing 11 | of the denial of a constitutional right. Therefore, the Court declines to issue a certificate of 12 | appealability. 13 Accordingly, 14 1. The findings and recommendations issued on August 12, 2024, Doc. 45, are 15 adopted in full; 16 2. The petition for writ of habeas corpus is denied with prejudice; 17 3. The Clerk of Court is directed to enter judgment and close the case; and 18 4. The Court declines to issue a certificate of appealability. 19 20

91 | IT IS SO ORDERED. _

22 Dated: _ May 14, 2025 |

33 UNITED STATES DISTRICT JUDGE

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