

UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF  
CALIFORNIA

Aroz v. Covello

Aroz · No. 2:21-cv-1934 DJC CSK P · Decided May 6, 2025

SUMMARY

The United States District Court for the Eastern District of California adopted the Magistrate Judge’s findings and recommendations and denied Alex Aroz’s application for a writ of habeas corpus under 28 U.S.C. § 2254. The court declined to consider a new claim raised in the traverse, denied 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                                                                                                                                                                                                                                         |
| WRITING FOR THE COURT | Daniel J. Calabretta                                                                                                                                                                                                                                                                                        |
| JURISDICTION          | United States District Court for the Eastern District of California                                                                                                                                                                                                                                         |
| DECIDED               | May 6, 2025                                                                                                                                                                                                                                                                                                 |
| DOCKET                | 2:21-cv-1934 DJC CSK P                                                                                                                                                                                                                                                                                      |
| DISPOSITION           | denied                                                                                                                                                                                                                                                                                                      |
| PROCEDURAL POSTURE    | State prisoner petitioner sought habeas relief under 28 U.S.C. § 2254. The district court adopted the magistrate judge's findings and recommendations, denied the petition, declined to consider a new claim raised in the traverse, declined to issue a certificate of appealability, and closed the case. |
| STANDARD OF REVIEW    | Factual findings are presumed correct; legal conclusions are reviewed de novo.                                                                                                                                                                                                                              |
| PRECEDENTIAL VALUE    | Unknown                                                                                                                                                                                                                                                                                                     |
| PARTIES               | Alex Aroz v. Patrick Covello                                                                                                                                                                                                                                                                                |

TOPICS

- federal habeas corpus
- post-conviction relief
- pleadings
- civil procedure
- due process

PRACTICE AREAS

- federal habeas corpus
- post-conviction relief
- civil procedure
- constitutional law

## QUESTIONS PRESENTED

1. Whether the magistrate judge's findings and recommendations should be adopted when neither party filed objections.
2. Whether petitioner was entitled to habeas relief under 28 U.S.C. § 2254.
3. Whether the court should consider a new claim raised for the first time in the traverse.
4. Whether petitioner was entitled to a certificate of appealability.

## HOLDINGS

1. The district court adopted the magistrate judge's findings and recommendations in full after reviewing the record and finding them supported by the record and the magistrate judge's analysis.
2. Petitioner's application for a writ of habeas corpus was denied.
3. The court declined to consider the new claim raised in the traverse.
4. The court declined to issue a certificate of appealability because petitioner had not made a substantial showing of the denial of a constitutional right.

## KEY QUOTATIONS

*“Petitioner's application for a writ of habeas corpus is denied, and the Court declines to consider the new claim raised in the traverse;”* (1)

*“The Court declines to issue the certificate of appealability referenced in 28 U.S.C. § 2253 as Petitioner has not made substantial showing of the denial of a constitutional right.”* (1)

## FACTUAL BACKGROUND

Petitioner Alex Aroz was a state prisoner proceeding pro se and filed an application for habeas corpus relief under 28 U.S.C. § 2254. The district court reviewed a magistrate judge's findings and recommendations after neither party filed objections. The court found the recommendations supported by the record and analysis, denied the petition, and declined to consider a new claim raised in the traverse.

## PROCEDURAL HISTORY

Aroz filed an application for a writ of habeas corpus under 28 U.S.C. § 2254. The matter was referred to a magistrate judge, who issued findings and recommendations on August 13, 2024. Neither party objected, and the district court adopted the findings and recommendations in full, denied habeas relief, declined to consider the new traverse claim, denied a certificate of appealability, and directed the clerk to close the case.

## DISPOSITION

denied

## CASES CITED

- Orand v. United States, 602 F.2d 207, 208 (9th Cir. 1979)

- Britt v. Simi Valley Unified School Dist., 708 F.2d 452, 454 (9th Cir. 1983)

## OPINION

1 2 3 4 5 6 7 8 UNITED STATES DISTRICT COURT 9 FOR THE EASTERN DISTRICT OF  
CALIFORNIA 10 11 ALEX AROZ, No. 2:21-cv-1934 DJC CSK P 12 Petitioner, 13 v. ORDER 14  
PATRICK COVELLO, 15 Respondent. 16 17 Petitioner, a state prisoner proceeding pro se, filed  
an application for a writ of 18 habeas corpus pursuant to 28 U.S.C. § 2254.

The matter was referred to a United 19 States Magistrate Judge pursuant to 28 U.S.C. § 636(b)(1)  
(B) and Local Rule 302. 20 On August 13, 2024, the Magistrate Judge filed findings and  
recommendations 21 herein which were served on all parties, and which contained notice to all  
parties that 22 any objections to the findings and recommendations were to be filed within  
fourteen 23 days.

Neither party filed objections to the findings and recommendations. 24 The Court presumes that  
any findings of fact are correct. See Orand v. United 25 States, 602 F.2d 207, 208 (9th Cir. 1979).  
The Magistrate Judge's conclusions of law 26 are reviewed de novo. See Britt v. Simi Valley  
Unified School Dist., 708 F.2d 452, 454 27 (9th Cir. 1983).

The Court has reviewed the file and finds the findings and 28 recommendations to be supported by  
the record and by the Magistrate Judge's 1 || analysis. 2 Accordingly, IT IS HEREBY ORDERED  
that: 3 1. The findings and recommendations (ECF No. 42) are adopted in full; 4 2. Petitioner's  
application for a writ of habeas corpus is denied, and the Court 5 || declines to consider the new  
claim raised in the traverse; 6 3.

The Court declines to issue the certificate of appealability referenced in 28 7 || U.S.C. § 2253 as  
Petitioner has not made substantial showing of the denial of a 8 | constitutional right. See 28  
U.S.C. § 2253; and 9 4.

The Clerk of the Court is directed to close this case. 10 11 | Dated: May 5, 2025 "Dane J brat 12  
THE HONOR E DANIEL J. CALABRETTA UNITED STATES DISTRICT JUDGE 13 14 15  
DJCS - aroz21cv1934.801.he 16 17 18 19 20 21 22 23 24 25 26 27 28