

UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF
CALIFORNIA

Victor Manuel Quintero v. Tristan Lemon

Quintero v. Lemon · No. 1:22-cv-01568 JLT SAB (HC) · Decided February 25, 2025

SUMMARY

The United States District Court for the Eastern District of California adopted the magistrate judge’s findings and recommendations and denied Victor Manuel Quintero’s petition for a writ of habeas corpus under 28 U.S.C. § 2254. 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	February 25, 2025
DOCKET	1:22-cv-01568 JLT SAB (HC)
DISPOSITION	dismissed
PROCEDURAL POSTURE	A state prisoner petitioned for a writ of habeas corpus under 28 U.S.C. § 2254. After the magistrate judge issued findings and recommendations recommending denial, the district court conducted de novo review, adopted the findings and recommendations, denied the petition, declined to issue a certificate of appealability, and ordered the case closed.
STANDARD OF REVIEW	The district court reviewed the magistrate judge's findings and recommendations de novo under 28 U.S.C. § 636(b)(1). For a certificate of appealability after a merits denial of habeas relief, the petitioner must make a substantial showing of the denial of a constitutional right by demonstrating that reasonable jurists could debate the resolution of the constitutional claims or conclude that the issues deserve encouragement to proceed further.
PRECEDENTIAL VALUE	unpublished district-court order; nonprecedential
PARTIES	Victor Manuel Quintero v. Tristan Lemon

TOPICS

federal habeas corpus

post-conviction relief

appellate procedure

standard of review

civil procedure

PRACTICE AREAS

federal habeas corpus

post-conviction relief

appellate procedure

QUESTIONS PRESENTED

1. Whether the magistrate judge's findings and recommendations denying Quintero's § 2254 petition should be adopted after de novo review.
2. Whether Quintero made the substantial showing of the denial of a constitutional right necessary for issuance of a certificate of appealability.

HOLDINGS

1. The district court adopted the magistrate judge's findings and recommendations in full and denied Quintero's petition for a writ of habeas corpus.
2. The court declined to issue a certificate of appealability because reasonable jurists would not find the denial of the petition debatable or wrong and Quintero had not made the required substantial showing of the denial of a constitutional right.

KEY QUOTATIONS

“The Court finds reasonable jurists would not find the determination that the petition should be denied debatable or wrong, or that the issues presented are deserving of encouragement to proceed further.” (at 2)

FACTUAL BACKGROUND

Quintero is a state prisoner who challenged his state-court custody through a § 2254 petition. His five habeas grounds concerned the sufficiency of the evidence and alleged prosecutorial misconduct. The district court determined that the magistrate judge's recommendation denying relief was supported by the record and proper analysis.

PROCEDURAL HISTORY

Quintero filed a § 2254 petition asserting five grounds concerning sufficiency of the evidence and prosecutorial misconduct. The magistrate judge recommended denial of habeas relief. Quintero did not timely object after receiving an extension, and an attempted appeal to the Ninth Circuit was dismissed for lack of jurisdiction. Following issuance of the Ninth Circuit's mandate, the district court conducted de novo review, adopted the findings and recommendations in full, denied the petition, declined to issue a certificate of appealability, and closed the case.

DISPOSITION

dismissed

CASES CITED

- Wilkerson v. Wheeler, 772 F.3d 834, 838-39 (9th Cir. 2014)
- Miller-El v. Cockrell, 537 U.S. 322, 327, 335-36, 338 (2003)
- Slack v. McDaniel, 529 U.S. 473, 484 (2000)

OPINION

(HC) Quintero v. Lemon

PER CURIAM.

1 2 3 4 5 6 7

8 UNITED STATES DISTRICT COURT

9 EASTERN DISTRICT OF CALIFORNIA

10 11 VICTOR MANUEL QUINTERO,) Case No.: 1:22-cv-01568 JLT SAB (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 TRISTAN LEMON,) CASE, AND DECLINING TO ISSUE

) CERTIFICATE OF APPEALABILITY

15 Respondent.)) (Docs. 1, 25) 16) 17 Victor Manuel Quintero is a state prisoner proceeding
with a petition for writ of habeas 18 corpus pursuant to 28 U.S.C. § 2254, raising five grounds
related to sufficiency of the evidence 19 and prosecutorial misconduct. (See generally Doc. 1. at 7-
28.) The magistrate judge found 20 Petitioner was not entitled to habeas relief on the grounds
raised in his petition, and recommended 21 the Court deny the petition. (Doc. 25 at 4-22.) 22 The
Court served the Findings and Recommendations on Petitioner and notified him that 23 any
objections were due within 30 days. (Doc. 25 at 22.) Petitioner then filed an appeal to the 24 Ninth
Circuit, which the Court dismissed for lack of jurisdiction. (Docs. 26, 29.) After the Ninth 25
Circuit issued its mandate (Doc. 30), the Court granted a 30-day extension for Petitioner to file 26
objections. (Doc. 31.) Thus, any objections were due no later than January 20, 2025. (See id. at 27
1.) The Court also reminded Petitioner the “failure to file objections within the specified time 28
may waive the right to appeal...” (Id. at 2, citing Wilkerson v. Wheeler, 772 F.3d 834, 838-39 1 |
(9th Cir. 2014).) Petitioner did not file objections, and the time to do so expired. 2 According to 28
U.S.C. § 636(b)(1), this Court performed a de novo review of this case. 3 | Having carefully
reviewed the matter, the Court concludes the Findings and Recommendations 4 | are supported by
the record and proper analysis. Further, the Court declines to issue a certificate 5 | of appealability.
6 A petitioner seeking a writ of habeas corpus does not have an absolute entitlement to 7 | appeal,
and an appeal is only allowed in certain circumstances. Miller-El v. Cockrell, 537 8 | 322,
335-36 (2003); 28 U.S.C. § 2253. If a court denies a habeas petition on the merits, it may 9 | only
issue a certificate of appealability “if jurists of reason could disagree with the district court’s 10 |

resolution of [the petitioner's] constitutional claims or that jurists could conclude the issues 11 | presented are adequate to deserve encouragement to proceed further." Miller-El, 537 U.S. at 327; 12 | Slack v. McDaniel, 529 U.S. 473, 484 (2000). While Petitioner is not required to prove the merits 13 | of his case, he must demonstrate "something more than the absence of frivolity or the existence of 14 | mere good faith on his ... part." Miller-El, 537 U.S. at 338. The Court finds reasonable jurists 15 | would not find the determination that the petition should be denied debatable or wrong, or that the 16 || issues presented are deserving of encouragement to proceed further. Because Petitioner does not 17 | make the required substantial showing of the denial of a constitutional right, the Court declines to 18 || issue a certificate of appealability. Thus, the Court ORDERS: 19 1. The Findings and Recommendations issued on October 7, 2024 (Doc. 25) are 20 ADOPTED in full. 21 2. The petition for writ of habeas corpus (Doc. 1) is DENIED. 22 3. The Court declines to issue a certificate of appealability. 23 | /// 24 | /// 25 | /// 26 4. The Clerk of Court is directed to close the case. 27 28 IT IS SO ORDERED.

TINTITCH cRA TES NIeTRICT WMHee

1 Dated: February 25, 2025 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25 26 27
28