

APPENDIX A

• UNITED STATES DISTRICT COURT - FOR ARIZONA (Decision)

- Entered on September 10, 2019

Case 2:19-cv-04327-JJT--JFM Filed 09/10/19

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6 **IN THE UNITED STATES DISTRICT COURT**
7 **FOR THE DISTRICT OF ARIZONA**
8

9 Michael Lee Crane,
10 Petitioner,

11 v.

12 Charles L Ryan, et al.,
13 Respondents.
14

NO. CV-19-04327-PHX-JJT (JFM)

JUDGMENT IN A CIVIL CASE

15 **Decision by Court.** This action came for consideration before the Court. The
16 issues have been considered and a decision has been rendered.

17 IT IS ORDERED AND ADJUDGED that pursuant to the Court's Order filed
18 September 10, 2019, Petitioner's Petition for Writ of Habeas Corpus pursuant to
19 28 U. S. C. § 2254 is denied. Petitioner to take nothing and this action is hereby
20 dismissed without prejudice.

21 Brian D. Karth
22 District Court Executive/Clerk of Court

23 September 10, 2019

24 By s/ S. Quinones
25 Deputy Clerk
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**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ARIZONA**

Michael Lee Crane,
Petitioner,

v.
State of Arizona, *et al.*,
Respondents.

No. CV 19-04327-PHX-JJT (JFM)

ORDER

On May 30, 2019, Petitioner Michael Lee Crane, who is confined in the Arizona State Prison Complex-Eyman, filed a pro se Petition for Writ of Habeas Corpus pursuant to 28 U.S.C. § 2254 (Doc. 1). In a June 14, 2019 Order, the Court gave Petitioner 30 days to either pay the \$5.00 filing fee required in habeas corpus actions or file an in forma pauperis application. On June 25, 2019, Petitioner filed a Motion for Extension of Time, seeking an additional 30 days in which to comply with the Court's June 14, 2019 Order. On July 11, 2019, Petitioner paid the \$5.00 filing fee. The Court will deny the Motion for Extension of Time and dismiss the Petition without prejudice.

I. Petition

After pleading guilty, Petitioner was convicted in Maricopa County Superior Court, case #CR 2012-107176, of three counts of first-degree murder, three counts of kidnapping, two counts of first-degree burglary, three counts of arson, three counts of armed robbery, and one count of theft of means of transportation. On March 25, 2019, he was sentenced to multiple concurrent and consecutive terms of imprisonment, the longest of which are terms

1 of natural life.¹ In his Petition, Petitioner names Charles L. Ryan as Respondent and the
2 Arizona Attorney General as an Additional Respondent. Petitioner raises fifteen grounds
3 for relief.

4 In Grounds One, Two, and Three, he alleges that he was arrested without a “warrant
5 supported by oath or affirmation particularly describing the place to be searched, and the
6 persons or things to be seized,” in violation of his Fourth Amendment (Ground One) and
7 Fifth Amendment (Grounds Two and Three) rights.

8 In Ground Four, Petitioner claims that his Fifth Amendment rights were violated
9 when he was charged with two counts of first-degree murder in the absence of a grand jury
10 indictment.

11 In Ground Five, Petitioner alleges that his due process rights were violated by the
12 trial court’s failure to “both recognize and enforce” the common law and Uniform
13 Commercial Code sections 1-308 and 1-103.

14 In Grounds Six and Seven, Petitioner alleges that his due process rights under the
15 Fifth and Fourteenth Amendments were violated when he was charged as a “public
16 officer.”

17 In Ground Eight, Petitioner alleges that his Fifth and Fourteenth Amendment due
18 process rights were violated when he was convicted of violating a statute that is
19 unconstitutionally vague.

20 In Ground Nine, Petitioner alleges that his Fifth and Eighth Amendment rights were
21 violated by the imposition of an excessive bond or bail amount.

22 In Ground Ten, Petitioner claims that his First and Fifth Amendment rights were
23 violated when the trial court hindered his ability to speak on the public record.

24 In Ground Eleven, Petitioner alleges that his First and Fifth Amendment rights were
25 violated when the state refused to honor his request to “be left alone.”

26 In Ground Twelve, Petitioner alleges that his Fifth, Sixth, and Fourteenth
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28 ¹ See <http://www.courtminutes.maricopa.gov/viewerDoc.asp?SadID=41372> (last
accessed Sept. 3, 2019).

1 Amendment rights were violated when he was convicted under a statute that is overly
 2 vague and that had no application to him “as a private man and a ‘nonperson-nonresident’
 3 ‘national’ ‘state national’ and constitutional but non statutory citizen.”

4 In Ground Thirteen, Petitioner claims that the state exceeded its authority by
 5 arresting Plaintiff at his home without a “warrant supported by oath or affirmation
 6 particularly describing the place to be searched, and the persons or things to be seized.”

7 In Ground Fourteen, Petitioner alleges that the trial court “engaged in . . . fraud” by
 8 refusing to clarify whether it was exercising admiralty jurisdiction.

9 In Ground Fifteen, Petitioner accuses the state of committing fraud when it coerced
 10 him into entering a “fraudulent contract/plea agreement.”

11 **II. Discussion**

12 Before the court may grant habeas relief to a state prisoner, the prisoner must
 13 exhaust remedies available in the state courts. 28 U.S.C. § 2254(b)(1); *O’Sullivan v.*
 14 *Boerckel*, 526 U.S. 838, 842 (1999). An Arizona petitioner sentenced to less than the death
 15 penalty may exhaust his federal claims by presenting them in a procedurally proper way to
 16 the Arizona Court of Appeals on direct appeal and/or in post-conviction proceedings,
 17 without seeking discretionary review in the Arizona Supreme Court. *Crowell v. Knowles*,
 18 483 F. Supp. 2d 925, 928-30, 933 (D. Ariz. 2007) (following 1989 statutory amendment,
 19 Arizona Court of Appeals has jurisdiction over criminal convictions involving less than a
 20 death sentence); *cf. Swoopes v. Sublett*, 196 F.3d 1008, 1010 (9th Cir. 1999) (citing pre-
 21 1989 statute). To exhaust a claim, a petitioner must describe “both the operative facts and
 22 the federal legal theory on which his claim is based so that the state courts [could] have a
 23 ‘fair opportunity’ to apply controlling legal principles to the facts bearing upon his
 24 constitutional claim.” *Castillo v. McFadden*, 399 F.3d 993, 999 (9th Cir. 2005) (quoting
 25 *Kelly v. Small*, 315 F.3d 1063, 1066 (9th Cir. 2003), *overruled in part on other grounds by*
 26 *Robbins v. Carey*, 481 F.3d 1143 (9th Cir. 2007)). A failure to exhaust will subject a
 27 petitioner to dismissal. *See Gutierrez v. Griggs*, 695 F.2d 1195, 1197 (9th Cir. 1983).

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1 Petitioner states that he has not presented his grounds for relief to the Arizona Court
2 of Appeals or the Arizona Supreme Court.² Thus, this habeas corpus action is premature,
3 and the Court will dismiss the case without prejudice.

4 **IT IS ORDERED:**

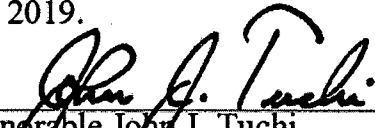
5 (1) Petitioner's Motion for Extension of Time (Doc. 6) is **denied** as moot.

6 (2) Petitioner's Petition for Habeas Corpus (Doc. 1) and this case are **dismissed**
7 **without prejudice.**

8 (3) The Clerk of Court must enter judgment accordingly and close this case.

9 (4) Pursuant to Rule 11(a) of the Rules Governing Section 2254 Cases, in the
10 event Petitioner files an appeal, the Court declines to issue a certificate of appealability
11 because reasonable jurists would not find the Court's procedural ruling debatable. *See*
12 *Slack v. McDaniel*, 529 U.S. 473, 484 (2000).

13 Dated this 10th day of September, 2019.

14 
15 Honorable John J. Tuchi
16 United States District Judge
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21 ² As a pleading defendant, Petitioner may exhaust his federal claims in state court
22 by filing a Rule 32 of-right proceeding and then, if he is denied relief, a petition for review
23 in the Arizona Court of Appeals. If Petitioner is denied relief by the Arizona Court of
24 Appeals, he may then commence a new habeas corpus case in federal court.

25 Petitioner should be aware that **there is a one-year statute of limitation to file an**
26 **application for habeas relief**, which runs from the latter of "the date on which the [state
27 court] judgment became final by the conclusion of direct review or the expiration of the
28 time for seeking such review." 28 U.S.C. § 2244(d)(1). A conviction and sentence become
final after judgment has been rendered, the availability of appeal exhausted, and the time
in which to file a petition for writ of certiorari has expired or a certiorari petition has been
denied. *See e.g., Lawrence v. Florida*, 549 U.S. 327, 340 n. 4 (2007); *Griffith v. Kentucky*,
479 U.S. 314, 321 n.6 (1987). In addition, "[t]he time during which a properly filed
application for State post-conviction or other collateral review with respect to the pertinent
judgment or claim is pending" is not counted toward the period of limitation. 28 U.S.C. §
2244(d)(2).

APPENDIX B.

UNITED STATES DISTRICT COURT OF APPEALS (9th Circuit) Decision

No. 19-16939 DC No. 2:19-cv-04327-JJT-JFM

FILED MARCH 20 2020

UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

FILED

MAR 20 2020

MOLLY C. DWYER, CLERK
U.S. COURT OF APPEALS

MICHAEL LEE CRANE,

Petitioner-Appellant,

v.

CHARLES L. RYAN; ATTORNEY
GENERAL FOR THE STATE OF
ARIZONA,

Respondents-Appellees.

No. 19-16939

D.C. No. 2:19-cv-04327-JJT-JFM
District of Arizona,
Phoenix

ORDER

Before: CLIFTON and NGUYEN, Circuit Judges.

The request for a certificate of appealability (Docket Entry No. 2) is denied because appellant has not shown that “jurists of reason would find it debatable whether the petition states a valid claim of the denial of a constitutional right and that jurists of reason would find it debatable whether the district court was correct in its procedural ruling.” *Slack v. McDaniel*, 529 U.S. 473, 484 (2000); *see also* 28 U.S.C. § 2253(c)(2); *Gonzalez v. Thaler*, 565 U.S. 134, 140-41 (2012).

Any pending motions are denied as moot.

DENIED.