

APPENDIX

A

United States District Court
for the
Southern District of Florida

Edward Revenous Brown,
Petitioner

v.

State of Florida,
Respondent.

)
)
)
) Civil Action No. 23-22090-Civ-Scola
)

Order

Before the Court is *pro se* Petitioner Edward Revenous Brown's petition under 28 U.S.C. § 2254 (ECF No. 1). The petition raises one ground for relief, claiming that the "Petitioner's judgment, sentence[,] and conviction[s]" are illegal due to an invalid warrant. (*See id.* at 5). The Respondent filed a response (ECF No. 9) and an appendix (ECF No. 10) with accompanying exhibits (ECF No. 10-1-10-7). The Petitioner did not file a reply, and the time to do so has passed. The Court has carefully reviewed the parties' written submissions, the record, and applicable law. For the reasons explained below, the petition is denied on the merits.

1. Background

On July 14, 2015, the State charged the Petitioner by information with one count of robbery using a firearm (Count 1) and two counts of attempted second-degree murder (Counts 2 and 3).¹ (*See Information*, ECF No. 10-1 at 56-61). Following a trial, a jury found the Petitioner guilty as charged on Counts 1, 2, and 3. (*See Verdict*, ECF No. 10-1 at 63-65). The trial court thereafter adjudicated the Petitioner guilty (*see J. ECF No. 10-1 at 67-68*) and sentenced him to life imprisonment on Counts 1, 2, and 3 (*see Sentence*, ECF No. 10-1 at 71).

¹ The Information also charged the Petitioner with one count of being a convicted felon in possession of a firearm (Count 4), but that count was severed. (*See Information at 60; Resp. at 2*).

The Petitioner filed the instant petition on May 30, 2023 (*see* Pet. at 1),³ asserting that his convictions and sentence are illegal because he was extradited and arrested pursuant to an invalid warrant (*see id.* at 5).

2. Legal Standard

Deference Under § 2254

A court's review of a state prisoner's federal habeas corpus petition is governed by the Antiterrorism and Effective Death Penalty Act ("AEDPA"). *See Abdul-Kabir v. Quarterman*, 550 U.S. 233, 246 (2007). AEDPA "imposes a highly deferential standard for evaluating state-court rulings . . . , and demands that state-court decisions be given the benefit of the doubt[.]" *Renico v. Lett*, 559 U.S. 766, 773 (2010) (quotation marks omitted). "The purpose of AEDPA is to ensure that federal habeas relief functions as a guard against extreme malfunctions in the state criminal justice systems, and not as a means of error correction." *Leadford v. Warden, Ga. Diagnostic & Classification Prison*, 818 F.3d 600, 642 (11th Cir. 2016) (quoting *Greene v. Fisher*, 565 U.S. 34, 38 (2011)).

According to AEDPA, a federal court may not grant a habeas petitioner relief on any claim adjudicated on the merits in state court unless the state court's decision (1) "was contrary to, or involved an unreasonable application of, clearly established Federal law, as determined by the Supreme Court of the United States;" or (2) "was based on an unreasonable determination of the facts in light of the evidence presented in the State court proceeding." 28 U.S.C. § 2254(d)(1)-(2).

A state court decision is "contrary to" established Supreme Court precedent when it (1) applies a rule that contradicts the governing law set forth by the Supreme Court; or (2) confronts a set of facts materially

ECF Nos. 10-2-10-7)—none of which have any bearing on the resolution of the instant petition; thus, the Court will not list those other pleadings in this order.

³ "Under the 'prison mailbox rule,' a pro se prisoner's court filing is deemed filed on the date it is delivered to prison authorities for mailing." *Williams v. McNeil*, 557 F.3d 1287, 1290 n.2 (11th Cir. 2009) (citations omitted).

alerting that court to the federal nature of the claim.” *Id.* (quotation marks and other omitted); *see also O’Sullivan v. Boerckel*, 526 U.S. 838, 845 (1999) (“[S]tate prisoners must give the state courts one full opportunity to resolve any constitutional issues by invoking one complete round of the State’s established appellate review process.”); *Johnson v. Fla.*, 32 F.4th 1092, 1096 (11th Cir. 2022) (“[A] state-court prisoner must present his claim to the state court in a manner that would allow a reasonable reader to understand the legal and factual foundation for each claim.” (quotation marks omitted)). “In Florida, exhaustion usually requires not only the filing of a [Fla. R. Crim. P.] 3.850 motion, but an appeal from its denial.” *Nieves v. Sec’y, Fla. Dep’t of Corr.*, 770 F. App’x 520, 521 (11th Cir. 2019) (alteration in original).

To fairly present the federal nature of the claim, “[i]t is not sufficient merely that the federal habeas petitioner has been through the state courts, nor is it sufficient that all the facts necessary to support the claim were before the state courts or that a somewhat similar state-law claim was made.” *Kelley v. Sec’y for Dept. of Corr.*, 377 F.3d 1317, 1343–44 (11th Cir. 2004) (citing *Picard v. Connor*, 404 U.S. 270, 275–76 (1971) and *Anderson v. Harless*, 459 U.S. 4, 6 (1982)). Rather, federal courts “have required a state prisoner to present the state courts with the same claim he urges upon the federal courts.” *Picard*, 404 U.S. at 276 (citations omitted). The Eleventh Circuit further has observed that proper exhaustion “requires a habeas applicant to do more than scatter some makeshift needles in the haystack of the state court record.” *McNair v. Campbell*, 416 F.3d 1291, 1303 (11th Cir. 2005) (quotation marks omitted).

3. Timeliness and Exhaustion

The Respondent concedes that the Petitioner timely filed the petition and that the petition’s sole ground for relief is exhausted. (See Resp. at 14); *Vazquez v. Sec’y, Fla. Dep’t of Corr.*, 827 F.3d 964, 966 (11th Cir. 2016) (“States can waive procedural bar defenses in federal habeas proceedings[.]” (quotation

In sum, the Court denies the petition's sole ground for relief as being refuted by the record.

5. Evidentiary Hearing

In a habeas corpus proceeding, the burden is on the petitioner to establish the need for an evidentiary hearing. *See Chavez v. Sec'y, Fla. Dep't of Corr.*, 647 F.3d 1057, 1060 (11th Cir. 2011). "[I]f the record refutes the applicant's factual allegations or otherwise precludes habeas relief, a district court is not required to hold an evidentiary hearing." *Schriro v. Landrigan*, 550 U.S. 465, 474 (2007). Here, the record refutes the Petitioner's ground for relief, meaning the Court can "adequately assess [the Petitioner's] claim without further factual development." *Turner v. Crosby*, 339 F.3d 1247, 1275 (11th Cir. 2003). The Petitioner, therefore, is not entitled to an evidentiary hearing.

6. Certificate of Appealability

A prisoner seeking to appeal a district court's final order denying his petition for writ of habeas corpus has no absolute entitlement to appeal; rather, in order to do so, he must obtain a certificate of appealability. *See* 28 U.S.C. § 2253(c)(1). This Court should issue a certificate of appealability only if the Petitioner makes "a substantial showing of the denial of a constitutional right." 28 U.S.C. § 2253(c)(2). Where, as here, the district court rejects a petitioner's constitutional claims on the merits, the petitioner must demonstrate that reasonable jurists "would find the district court's assessment of the constitutional claims debatable or wrong." *See Slack v. McDaniel*, 529 U.S. 473, 484 (2000). The Petitioner fails to make such a showing, hence the Court declines to issue a certificate of appealability.

7. Conclusion

For the foregoing reasons, the Petitioner's petition for writ of habeas corpus under 28 U.S.C. § 2254 (ECF No. 1) is **denied**. A certificate of appealability is also **denied**. Because there are no issues with arguable merit, an appeal would not be taken in good faith, and thus, **the Petitioner is not**

APPENDIX

B

United States District Court
for the
Southern District of Florida

Edward Revenous Brown,)	
Petitioner)	
)	
v.)	Civil Action No. 23-22090-Scola
)	
State of Florida,		
Respondent.		

Order

Before the Court is *pro se* Petitioner Edward Revenous Brown's petition for bill of certiorari, (ECF No. 21). The court construes the petition as notice of appeal as the Petitioner, at several points throughout the petition, seeks review of a higher court. *See id.* at 7 ("Petitioner argues that the decision . . . [of the Court] needs to be reviewed by the higher court of justice as a conflicted and deviated decision[.]"); *id.* at 12 (requesting that the Court "transmit the cause of legal proceeding from its equity jurisdiction to an [] appella[te] court for [a]ppella[te] review of the [Court's] decision"); *see also United States v. Jordan*, 915 F.2d 622, 624–25 (11th Cir. 1990) ("Federal courts have long recognized that they have an obligation to look behind the label of a [pleading] filed by a *pro se* inmate and determine whether the [pleading] is, in effect, cognizable under a different remedial statutory framework." (citation omitted)).

Accordingly, it is **ordered and adjudged** that the Clerk is to **reconstrue** the petition, **(ECF No. 21)**, as a notice of appeal and to **transmit** the notice to the United States Court of Appeals for the Eleventh Circuit.

APPENDIX

C

IN THE UNITED STATES COURT OF APPEALS
FOR THE ELEVENTH CIRCUIT

No. 23-14161-B

EDWARD REVENOUS BROWN,

Petitioner - Appellant,

versus

STATE OF FLORIDA,

Respondent - Appellee.

Appeal from the United States District Court
for the Southern District of Florida

ORDER: Pursuant to the 11th Cir. R. 42-1(b), this appeal is DISMISSED for want of prosecution because the appellant Edward Revenous Brown failed to comply with the rules on Certificates of Interested Persons and Corporate Disclosure Statements and file a Transcript Order Form within the time fixed by the rules; Motion for certificate of appealability construed from the notice of appeal is MOOT [10125313-2].

Effective February 01, 2024.

DAVID J. SMITH
Clerk of Court of the United States Court
of Appeals for the Eleventh Circuit

FOR THE COURT - BY DIRECTION