

APPENDIX A

UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

FILED

MAY 9 2025

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

ANTHONY TYRONE CAMPBELL Sr.,

Petitioner - Appellant,

v.

GIGI MATTESON,

Respondent - Appellee.

No. 24-7055

D.C. No. 3:24-cv-01464-VC
Northern District of California,
San Francisco

ORDER

Before: R. NELSON and BUMATAY, Circuit Judges.

The request for a certificate of appealability (Docket Entry No. 3) 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); *Miller-El v. Cockrell*, 537 U.S. 322, 327 (2003).

Any pending motions are denied as moot.

DENIED.

APPENDIX B

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

ANTHONY TYRONE CAMPBELL,

Petitioner,

v.

GIGI MATTESON,

Respondent.

Case No. 24-cv-01464-VC

**ORDER GRANTING MOTION TO
DISMISS; DENYING CERTIFICATE
OF APPEALABILITY**

Re: Dkt. No. 12

Anthony Tyrone Campbell, a state prisoner, filed a pro se petition for a writ of habeas corpus pursuant to 28 U.S.C. § 2254. The sole claim in the petition contends that his petition for resentencing was improperly denied by the San Mateo County Superior Court. The respondent moves to dismiss the petition on the grounds that the petition fails to state a cognizable claim and that the petition is unexhausted. For the following reasons, the motion is granted.

BACKGROUND

In 1997, a jury convicted Campbell of attempted murder, aggravated mayhem and assault with a firearm. Motion to Dismiss, Ex. A at 2-3. He was sentenced to a determinate term of eleven years followed by an indeterminate term of twenty-five years to life. *Id.* at 3. The judgment was affirmed on direct review and a federal habeas petition challenging the underlying conviction was denied on the merits. *Id.* at 4; *Campbell v. Pliler*, Case No. 00-cv-1135 SBA, Dkt. No. 21.

On January 1, 2019, California Senate Bill 1437, codified at California Penal section 1170.95, became effective and provided “a procedure by which those convicted of murder can seek retroactive relief if the changes in law would affect their previously sustained convictions.” *People v. Martinez*, 31 Cal. App. 5th 719, 722 (2019). The change “significantly limited the scope of the felony-murder rule to effectuate the Legislature’s declared intent ‘to ensure that

murder liability is not imposed on a person who is not the actual killer, did not act with the intent to kill, or was not a major participant in the underlying felony who acted with reckless indifference to human life.” *People v. Strong*, 13 Cal. 5th 698, 707-08 (2022).

In 2021 Campbell filed a petition for resentencing under section 1170.95, renumbered in 2022 as section 1172.6, in the San Mateo County Superior Court. Motion to Dismiss, Ex. A at 4. He argued that he was prosecuted under a theory of murder that is now prohibited by state law. *Id.* at 3. The superior court denied the petition, finding that Campbell failed to present a prima facie case for relief. *Id.* at 6. The California Court of Appeal affirmed the decision. *Id.* at 10. The California Supreme Court denied review. *Id.* Exs. B-C.

DISCUSSION

Federal courts shall “entertain an application for a writ of habeas corpus on behalf of a person in custody pursuant to the judgment of a State court only on the ground that he is in custody in violation of the Constitution or laws or treaties of the United States.” 28 U.S.C. Section 2254(a). “It is not the province of a federal habeas court to reexamine state-court determinations on state-law questions.” *Estelle v. McGuire*, 502 U.S. 62, 67-68 (1991).

Campbell argues that he was prosecuted under a theory of felony murder and the natural and probable consequence doctrine that California law now prohibits; therefore, his petition for resentencing should have been granted by the superior court. *Id.* at 4-5. Campbell’s argument involves a state proceeding created exclusively by state law to shorten his sentence. There is no federal right to be resentenced from a valid conviction and sentence. *See Swarthout v. Cooke*, 562 U.S. 216, 220 (2011). Many district courts have rejected similar challenges to resentencing under section 1170.95. *See, e.g., Rangel v. Cruz*, Case No. 23-cv-3754 DSF, Dkt. No. 9 at 2-5 (C.D. Cal. July 5, 2023); *Walker v. Pfeiffer*, Case No. 17-cv-1931 DMG, 2019 WL 7194557, at *1 (C.D. Cal. Dec. 26, 2019), certificate of appealability denied, No. 20-55132 (9th Cir. Jun. 17, 2021); *Esparza v. Lizarraga*, Case No. 17-3168 AB MAA, 2019 WL 6749449, at *3 (C.D. Cal. Aug. 7, 2019), report and recommendation adopted, 2019 WL 5589040 (C.D. Cal. Oct. 28, 2019), certificate of appealability denied, No. 19-56299 (9th Cir. March 5, 2021).

A state court's misapplication of state sentencing law may violate due process if a petitioner can demonstrate both state sentencing error and that the error was "so arbitrary or capricious as to constitute an independent due process" violation. *Richmond v. Lewis*, 506 U.S. 40, 50 (1992). However, a habeas petitioner "may not . . . transform a state-law issue into a federal one merely by asserting a violation of due process." *Langford v. Day*, 110 F.3d 1380, 1389 (9th Cir. 1996).

Here, Campbell was not prosecuted under a theory that is now prohibited by state law. The California Court of Appeal noted that Campbell and the victim exchanged heated words, were separated by others and then Campbell approached the victim with a gun and shot him. Motion to Dismiss, Ex. A at 9. The jury found that Campbell was the direct perpetrator of the crime and personally used a firearm and personally and inflicted great bodily injury on the victim. *Id.* at 8. Contrary to Campbell's argument, the jury was not provided an instruction related to the natural and probable consequence doctrine or an instruction under a felony murder theory or any theory that he aided and abetted another in committing the crime. *Id.* at 9-10. Campbell's conclusory arguments with no support are contradicted by the record and are insufficient. *See James v. Borg*, 24 F.3d 20, 26 (9th Cir. 1994) ("Conclusory allegations which are not supported by a statement of specific facts do not warrant habeas relief."). Campbell has not shown that there was a state sentencing error and that the error was so arbitrary or capricious that it violated his due process rights.

The respondent also argues that this claim is unexhausted. The court will not address the exhaustion argument, because the petition does not contain a cognizable federal claim. *See* 28 U.S.C. § 2254(b)(2); *Cassett v. Stewart*, 406 F.3d 614, 624 (9th Cir. 2005) ("a federal court may deny an unexhausted petition on the merits only when it is perfectly clear that the applicant does not raise even a colorable federal claim").

CONCLUSION


The motion to dismiss the petition is granted. Because reasonable jurists would not find the result debatable, a certificate of appealability is denied. *See Slack v. McDaniel*, 529 U.S. 473,

484-85 (2000). The Clerk of the Court will issue a separate judgment and close the file.

This order terminates Dkt. No. 12.

IT IS SO ORDERED.

Dated: October 23, 2024



VINCE CHHABRIA
United States District Judge

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

ANTHONY TYRONE CAMPBELL,

Petitioner,

v.

GIGI MATTESON,

Respondent.

Case No. 24-cv-01464-VC

JUDGMENT

For the reasons stated in the order granting the respondent's motion to dismiss, judgment is entered in favor of respondent and against petitioner.

The Clerk shall close the file.

IT IS SO ORDERED.

Dated: October 24, 2024



VINCE CHHABRIA
United States District Judge

UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

FILED

JUN 17 2025

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

ANTHONY TYRONE CAMPBELL Sr.,

Petitioner - Appellant,

v.

GIGI MATTESON,

Respondent - Appellee.

No. 24-7055

D.C. No. 3:24-cv-01464-VC
Northern District of California,
San Francisco

ORDER

Before: H.A. THOMAS and DESAI, Circuit Judges.

The motion (Docket Entry No. 5) for reconsideration is denied. *See* 9th Cir.

R. 27-10.

No further filings will be entertained in this closed case.

**Additional material
from this filing is
available in the
Clerk's Office.**