APPENDIX

A

APPENDIX A

United States Court of Appeals
For the First Circuit

No. 23-1493

JORDAN MONROE,

Petitioner - Appellant,

v.

UNITED STATES,

Respondent - Appellee.

Before

Barron, Chief Judge,
Gelpí, Montecalvo, Rikelman,
and Aframe, Circuit Judges.

ORDER OF COURT

Entered: August 11, 2025

The petition for rehearing having been denied by the panel of judges who decided the case, and the petition for rehearing en banc having been submitted to the active judges of this court and a majority of the judges not having voted that the case be heard en banc, it is ordered that the petition for rehearing and petition for rehearing en banc be denied.

By the Court:

Anastasia Dubrovsky, Clerk

cc:
John P. McAdams
Lauren S. Zurier
Jordan Monroe

APPENDIX

B

United States Court of Appeals
For the First Circuit

No. 23-1493

JORDAN MONROE,

Petitioner - Appellant,

v.

UNITED STATES,

Respondent - Appellee.

Before

Gelpí, Montecalvo and Rikelman,
Circuit Judges.

JUDGMENT

Entered: August 12, 2024

Petitioner Jordan Monroe seeks a certificate of appealability ("COA") in relation to the district court's denial of his motion pursuant to 28 U.S.C. §2255. After careful consideration of the ¶1 papers and relevant portions of the record, we conclude that the district court's rejection of Monroe's claims was neither debatable nor wrong. See Slack v. McDaniel, 529 U.S. 473, 484 (2000) (COA standard). We set aside issues regarding in forma pauperis status, including the district court's certification that this appeal was not taken in good faith, in favor of disposition of the COA application on the merits. See, e.g., Restoration Pres. Masonry, Inc. v. Grove Eur. Ltd., 325 F.3d 54, 58-60 (1st Cir. 2003) (discussing bypass of statutory issues in favor of ruling on the merits).

Turning to the merits, in particular, we disagree with petitioner that the district court erred by concluding that he could not show prejudice stemming from any error by trial counsel in ¶2 challenging, or failing to adequately challenge, the warrants issued in 2016 and petitioner's resulting arrest because, among other reasons, the charges in the superseding indictment to which petitioner pleaded guilty were largely based on evidence turned over by a third party several years later. See Strickland v. Washington, 466 U.S. 668, 688, 694 (1984) (discussing prejudice showing required in order to demonstrate ineffective assistance of counsel); see also United States v. Sierra-Ayala, 39 F.4th 1, 17 (1st Cir. 2022), cert. denied, 143 S. Ct. 1040 (2023) (suppression as fruit of the poisonous tree is not appropriate where "the connection between the illegal police conduct and

the discovery and seizure of the evidence is so attenuated as to dissipate the taint") (cleaned up). Moreover, the validity of the warrants, and the jurisdiction of the issuing courts, was in fact the ¶2 subject of a vigorous challenge by counsel before petitioner's guilty plea. Further, the legitimacy of the warrants was affirmed by this court on appeal, and "counsel's performance" cannot be labeled deficient simply because he "declined to pursue a futile tactic." Vieux v. Pepe, 184 F.3d 59, 64 (1st Cir. 1999).

We also reject petitioner's claim that the district court failed to address his claim that he was "threatened" to plead guilty or that his plea was involuntary due to counsel's failure to provide information. The district court did address this claim, despite the fact that petitioner presented the ¶3 claim in a vague, undeveloped way. See United States v. Zannino, 895 F.2d 1, 17 (1st Cir. 1990) ("It is not enough merely to mention a possible argument in the most skeletal way, leaving the court to do counsel's work, create the ossature for the argument, and put flesh on its bones."). Indeed, in addressing this claim(s), the district court "endeavor[ed] to glean [p]etitioner's specific complaint from the record" and "reviewed the plea agreement, the transcript of the hearing on [p]etitioner's change of plea, and the First Circuit's decision on the appeal of the decisions on the two motions to suppress" but "f[ound] no support for [p]etitioner's contention." D.Ct. Dkt. 98 at 15 (internal record citations omitted). With his COA application, petitioner has failed to explain what other specific steps the district court might have taken to address the claim.

With respect to petitioner's remaining arguments, we see nothing "debatable or wrong" in the district court's thorough analysis and resolution of his claims. The discussion of specific claims ¶4 above should not be construed as suggesting that this court has overlooked any of the arguments set out in petitioner's COA application. The court has considered each argument developed in the application and has concluded that none of the claims warrants the grant of a COA.

The application for a certificate of appealability is denied, and the appeal is terminated.

By the Court:

Maria R. Hamilton, Clerk

cc:
John P. McAdams
Lauren S. Zurier
Jordan Monroe

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