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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

<p>JIMMY EARL DOWNS,</p> <p>Petitioner - Appellant,</p> <p>v.</p> <p>LENARD VARE and ATTORNEY GENERAL FOR THE STATE OF NEVADA,</p> <p>Respondents - Appellees.</p>
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No. 10-15624

D.C. No. 3:05-cv-00483-PMP

MEMORANDUM\*

Appeal from the United States District Court  
for the District of Nevada  
Philip M. Pro, District Judge, Presiding

Submitted July 12, 2011\*\*

Before: SCHROEDER, ALARCÓN, and LEAVY, Circuit Judges.

Nevada state prisoner Jimmy Earl Downs appeals pro se from the district court's judgment dismissing his 28 U.S.C. § 2254 habeas petition with prejudice.

We have jurisdiction under 28 U.S.C. § 2253, and we affirm.

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\* This disposition is not appropriate for publication and is not precedent except as provided by 9th Cir. R. 36-3.

\*\* The panel unanimously concludes this case is suitable for decision without oral argument. See Fed. R. App. P. 34(a)(2).

Downs contends that his conviction for grand larceny and robbery violated the constitutional proscription against double jeopardy. The Nevada Supreme Court rejected this claim, reasoning that, under *Blockburger v. United States*, 284 U.S. 299 (1932), each crime required the proof of a fact not required by the other. As we are bound by the Nevada Supreme Court's determination that state law permitted conviction for both grand larceny and robbery within the context of a single trial, *see Missouri v. Hunter*, 459 U.S. 359, 368 (1983), we conclude that that court's rejection of Downs's double jeopardy challenge was neither contrary to nor based upon an unreasonable application of clearly established federal law. *See* 28 U.S.C. § 2254(d)(1); *Hunter*, 459 U.S. at 366-69.

Downs also urges us to consider several other claims that were either dismissed by the district court as procedurally defaulted or denied on the merits. We construe Downs's additional arguments as a renewal of his motions to expand the certificate of appealability. So construed, the motion is denied. *See* 9th Cir. R. 22-1(e); *see also Hiivala v. Wood*, 195 F.3d 1098, 1104-05 (9th Cir. 1999) (*per curiam*).

**AFFIRMED.**