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U.S. COURT OF APPEALS

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UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

JAMES LEE LIKE, Petitioner - Appellant, v. JACK PALMER, Respondent - Appellee.	No. 10-17571 D.C. No. 3:08-cv-00255-RCJ-VPC MEMORANDUM[*]

Appeal from the United States District Court
for the District of Nevada
Robert Clive Jones, Chief District Judge, Presiding

Submitted December 6, 2011[**]
San Francisco, California

Before: TROTT and BEA, Circuit Judges, and PALLMEYER, District Judge.[***]

James Like, a Nevada state prisoner, appeals the district court's denial of his 28 U.S.C. § 2254 habeas petition. We review *de novo* the district court's decision

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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).

[***] The Honorable Rebecca R. Pallmeyer, District Judge for the U.S. District Court for Northern Illinois, sitting by designation.

to deny a § 2254 habeas petition. *Gonzalez v. Knowles*, 515 F.3d 1006, 1011 (9th Cir. 2008). We have jurisdiction under 28 U.S.C. § 2253 and we affirm. The parties are familiar with the facts underlying the appeal and thus we do not include them here.

Like challenges his sentence of life without parole for grand larceny auto under Nevada's habitual criminal act, Nev. Rev. Stat. § 207.010, based on three prior convictions for forgery, attempted grand larceny, and attempted theft, as cruel and unusual punishment under the Eighth Amendment. Because Like filed his federal habeas petition after April 26, 1996, the Antiterrorism and Effective Death Penalty Act of 1996 ("AEDPA") applies. The Nevada Supreme Court's decision affirming Like's sentence was not contrary to, or an unreasonable application of, clearly established federal law. *See Lockyer v. Andrade*, 538 U.S. 63, 77 (2003) (two consecutive twenty-five-years-to-life sentences under California three-strikes law based on several prior convictions did not violate the Eighth Amendment).[1] Therefore, the district court properly denied habeas relief.

AFFIRMED.

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[1] Like argues that his sentence differs from that in *Andrade* because he lacks the possibility of parole. We are not persuaded that the availability of parole in other situations requires a different result here.