

JUN 30 2014

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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

<p>JOSEPH GRICE,</p> <p style="text-align: center;">Petitioner - Appellant,</p> <p style="text-align: center;">v.</p> <p>JOHN MARSHALL,</p> <p style="text-align: center;">Respondent - Appellee.</p>

No. 12-17411

D.C. No. 4:07-cv-02490-PJH

MEMORANDUM*

Appeal from the United States District Court
for the Northern District of California
Phyllis J. Hamilton, District Judge, Presiding

Submitted June 25, 2014**

Before: HAWKINS, TALLMAN, and NGUYEN, Circuit Judges.

California state prisoner Joseph Grice appeals from the district court’s judgment denying his 28 U.S.C. § 2254 habeas corpus petition. We have jurisdiction under 28 U.S.C. § 2253. We review a district court’s denial of a habeas corpus petition de novo, *see Stanley v. Cullen*, 633 F.3d 852, 859 (9th Cir.

* 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)*.

2011), and we affirm.

Grice contends that the trial court violated his rights to present a defense and to confrontation under the Sixth and Fourteenth Amendments when it limited Grice's ability to cross-examine a prosecution witness with her prior misdemeanor arrests and convictions. The California Court of Appeal's rejection of this claim was not contrary to, or an unreasonable application of, clearly established federal law. *See* 28 U.S.C. § 2254(d)(1); *see Michigan v. Lucas*, 500 U.S. 145, 151 (1991) ("Restrictions on a criminal defendant's rights to confront adverse witnesses and to present evidence may not be arbitrary or disproportionate to the purposes they are designed to serve." (internal quotations omitted)).

Grice's petition to the district court also alleged that (1) his trial counsel was ineffective for failing to discover and present evidence of the victim's violent history, and (2) the trial court violated his right to present a defense when it excluded testimony about Grice's pre-trial custodial status. The district court issued a certificate of appealability as to these issues. On appeal, Grice's counsel states that no further briefing is necessary. Our independent review of the record pursuant to *Penson v. Ohio*, 488 U.S. 75, 80 (1988), discloses no arguable grounds for relief on these claims.

AFFIRMED.