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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

<p>DESHAWN DUNDRE BROADNAX,</p> <p>Petitioner,</p> <p>v.</p> <p>JEFFREY BEARD, Secretary of the California Department of Corrections and Rehabilitation,</p> <p>Respondent - Appellee.</p>
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No. 13-56134

D.C. No. 3:12-cv-00560-GPC

MEMORANDUM*

Appeal from the United States District Court
for the Southern District of California
Gonzalo P. Curiel, District Judge, Presiding

Submitted December 9, 2014**

Before: WALLACE, LEAVY, and BYBEE, Circuit Judges.

California state prisoner Deshawn Dundre Broadnax appeals pro se from the district court’s judgment denying his 28 U.S.C. § 2254 habeas petition. We have jurisdiction under 28 U.S.C. § 2253. We review de novo the denial of a habeas

* 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).

corpus petition, *see Fairbank v. Ayers*, 650 F.3d 1243, 1250 (9th Cir. 2011), and we affirm.

Broadnax contends that the trial court erred in refusing to order a new trial in light of new evidence that he could have used to impeach a state's witness, who was charged as Broadnax's codefendant. Broadnax's allegation that the trial court misapplied California's rules for new trials does not state a cognizable claim for federal habeas relief. *See* 28 U.S.C. § 2254(a); *Estelle v. McGuire*, 502 U.S. 62, 67-68 (1991).

We construe Broadnax's additional arguments, including his allegation of ineffective assistance of counsel and prosecutorial misconduct under *Brady v. Maryland*, 373 U.S. 83 (1963), as a motion to expand the certificate of appealability. So construed, the motion is denied. *See* 9th Cir. R. 22-1(e); *Hiivala v. Wood*, 195 F.3d 1098, 1104-05 (9th Cir. 1999) (per curiam).

Broadnax's motion to stay and abey these proceedings to permit him to exhaust previously unavailable claims in state court is denied.

AFFIRMED.