

FILED

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

SEP 1 2015

FOR THE NINTH CIRCUIT

MOLLY C. DWYER, CLERK
U.S. COURT OF APPEALS

JOHN BRANDON LACEY,

Petitioner - Appellant,

v.

LEROY KIRKEGARD and ATTORNEY
GENERAL FOR THE STATE OF
MONTANA,

Respondents - Appellees.

No. 13-35917

D.C. No. 2:12-cv-00037-CSO

MEMORANDUM*

Appeal from the United States District Court
for the District of Montana
Carolyn S. Ostby, Magistrate Judge, Presiding**

Submitted August 25, 2015***

Before: McKEOWN, CLIFTON, and HURWITZ, Circuit Judges.

Montana state prisoner John Brandon Lacey appeals pro se from the district court's judgment denying his 28 U.S.C. § 2254 habeas corpus petition. We have

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

** The parties consented to proceed before a magistrate judge.

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

jurisdiction under 28 U.S.C. § 2253. We review de novo a district court's denial of a section 2254 habeas corpus petition, *see Stanley v. Cullen*, 633 F.3d 852, 859 (9th Cir. 2011), and we affirm.

Lacey contends that his Sixth Amendment right to a speedy trial was violated by the approximately eight-and-a-half year delay between the issuance of the warrant for his arrest and his arrest. The state court was reasonable in its factual determination that Lacey took deliberate actions to conceal his whereabouts in order to avoid prosecution, and that his assertions to the contrary were not credible. *See* 28 U.S.C. § 2254(d)(2), (e)(1); *Murray v. Schriro*, 745 F.3d 984, 1001 (9th Cir. 2014). Accordingly, the state did not violate Lacey's Sixth Amendment right to a speedy trial. *See United States v. Sandoval*, 990 F.2d 481, 483 (9th Cir. 1993) (defendant waives right to speedy trial when he seeks to avoid detection by authorities).

AFFIRMED.