

NOT FOR PUBLICATION

FILED

UNITED STATES COURT OF APPEALS

FEB 24 2021

FOR THE NINTH CIRCUIT

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

KENYON DARRELL BROWN,

No. 20-56264

Petitioner-Appellant,

D.C. No. 5:20-cv-01775-RGK-JDE

v.

MEMORANDUM*

KELLY SANTORO, Acting Warden,

Respondent-Appellee.

Appeal from the United States District Court
for the Central District of California
R. Gary Klausner, District Judge, Presiding

Submitted February 17, 2021**

Before: FERNANDEZ, BYBEE, and BADE, Circuit Judges.

California state prisoner Kenyon Darrell Brown appeals pro se from the district court's judgment dismissing his 28 U.S.C. § 2254 habeas corpus petition. We have jurisdiction under 28 U.S.C. § 2253. We review de novo a district court's dismissal of a habeas petition, *see Zichko v. Idaho*, 247 F.3d 1015, 1019 (9th Cir.

* This disposition is not appropriate for publication and is not precedent except as provided by Ninth Circuit Rule 36-3.

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

2001), and we affirm.

In his petition, Brown alleged that the California Department of Corrections and Rehabilitation discriminates against him by denying him equal access to opportunities to earn good conduct credits and participate in rehabilitative programs. He also alleged that, in light of the coronavirus and the conditions in his prison, he is at high risk and cannot access to rehabilitative and educational programs. These claims fall outside “the core of habeas corpus” because success on the claims would not necessarily lead to immediate or earlier release from confinement. *See Nettles v. Grounds*, 830 F.3d 922, 935 (9th Cir. 2016) (en banc). Therefore, the district court properly dismissed the petition.

We treat Brown’s argument that he is entitled to resentencing as a motion to expand the certificate of appealability. So treated, the motion is denied. *See* 9th Cir. R. 22-1(e); *Hiivala v. Wood*, 195 F.3d 1098, 1104-05 (9th Cir. 1999).

Appellant’s motions to proceed in forma pauperis are granted.

Appellant’s motions for appointment of counsel, and all other pending motions, are denied.

AFFIRMED.