

NOT FOR PUBLICATION

FILED

UNITED STATES COURT OF APPEALS

AUG 24 2023

FOR THE NINTH CIRCUIT

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

CARRI WILLIAMS,

Petitioner-Appellant,

v.

JO WOFFORD, Superintendent, Washington
Corrections Center for Women,

Respondent-Appellee.

No. 22-35628

D.C. No. 2:20-cv-01477-RSL

MEMORANDUM*

Appeal from the United States District Court
for the Western District of Washington
Robert S. Lasnik, District Judge, Presiding

Submitted August 22, 2023**
Seattle, Washington

Before: HAWKINS, GRABER, and McKEOWN, Circuit Judges.

Petitioner Carri Williams appeals from the district court's denial of her petition for a writ of habeas corpus, brought pursuant to 28 U.S.C. § 2254.

Reviewing de novo, Murray v. Schriro, 745 F.3d 984, 996 (9th Cir. 2014), we

* 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).

affirm.

1. Petitioner argues that her conviction for homicide by abuse under Washington Revised Code section 9A.32.055 is unconstitutional because the statute is facially vague. To prevail on her claim, Petitioner must show that the state court's adjudication of the merits of her claim "was contrary to, or involved an unreasonable application of, clearly established Federal law, as determined by the Supreme Court of the United States," 28 U.S.C. § 2254(d)(1), or was "based on an unreasonable determination of the facts in light of the evidence presented in the State court proceeding," *id.* § 2254(d)(2). Because at least one of the grounds on which the state court relied is a reasonable application of clearly established law, we must affirm. *See Shinn v. Kayer*, 141 S. Ct. 517, 524 (2020) (per curiam) ("Federal courts may not disturb the judgments of state courts unless 'each ground supporting the state court decision is examined and found to be unreasonable.'" (quoting *Wetzel v. Lambert*, 565 U.S. 520, 525 (2012) (per curiam))).

The state court provided two reasons for denying Petitioner's claim, one of which was that she could not bring a facial vagueness challenge because her as-applied challenge failed. That is not contrary to clearly established law: "[A]s a general matter, a defendant who cannot sustain an as-applied vagueness challenge to a statute cannot be the one to make a facial vagueness challenge to the statute." *Kashem v. Barr*, 941 F.3d 358, 375 (9th Cir. 2019). Contrary to Petitioner's

assertions, the Supreme Court’s decisions in Johnson v. United States, 576 U.S. 591 (2015), and Sessions v. Dimaya, 138 S. Ct. 1204 (2018), did not alter that rule. Kashem, 941 F.3d at 375–76; Bowling v. McDonough, 38 F.4th 1051, 1061–62 (Fed. Cir. 2022); United States v. Cook, 970 F.3d 866, 873, 876–77 (7th Cir. 2020).

None of the exceptions to that general rule applies here. This is not an “exceptional circumstance” that requires us to consider an idealized crime instead of examining the facts of the case. See Kashem, 941 F.3d at 377 (distinguishing Johnson and Dimaya because that case required application of the categorical approach). Nor does the statute lack a discernable core. Cf. Coates v. Cincinnati, 402 U.S. 611, 614 (1971) (holding that an ordinance prohibiting annoying conduct was facially vague without considering whether it was vague as applied to the challengers, not because the ordinance “require[d] a person to conform his conduct to an imprecise but comprehensible normative standard, but [because] no standard of conduct [was] specified at all”).

2. We decline to expand the certificate of appealability. 28 U.S.C. § 2253(c)(1)(A).

AFFIRMED.