

NOT FOR PUBLICATION

FILED

UNITED STATES COURT OF APPEALS

AUG 31 2026

FOR THE NINTH CIRCUIT

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

MICHAEL S. GORBEY, AKA Michael S.
Owl Feather-Gorbey, AKA Tsunami Khan,
AKA Michael Steven Owl Feather-Gorbey,

Appellant,

v.

Warden, USP Coleman 1,

Appellee.

No. 24-2155

D.C. No.

2:23-cv-10043-MCS-PD

MEMORANDUM*

Appeal from the United States District Court
for the Central District of California
Mark C. Scarsi, District Judge, Presiding

Submitted August 25, 2026**

Before: SILVERMAN, N.R. SMITH, and DE ALBA, Circuit Judges.

Michael S. Gorbey appeals from the district court's judgment dismissing his
28 U.S.C. § 2241 petition. Pursuant to *Anders v. California*, 386 U.S. 738 (1967),
Gorbey's appointed counsel has filed a brief stating that there are no grounds for

* 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).

relief, along with a motion to withdraw as counsel of record. Gorbey has filed two pro se supplemental briefs. No answering brief has been filed.

Our independent review of the record pursuant to *Penson v. Ohio*, 488 U.S. 75, 80 (1988), discloses that there are no bases for appellate relief. *See Graves v. McEwen*, 731 F.3d 876, 880-81 (9th Cir. 2013). The district court permissibly relied on the abuse of the writ doctrine to dismiss Gorbey’s claims that (1) the Bureau of Prisons (“BOP”) is ignoring an inmate “face sheet,” which is causing him to serve an extended sentence; (2) the BOP failed to calculate correctly his time served credit; and (3) his appellate counsel rendered ineffective assistance. *See Eldridge v. Howard*, 70 F.4th 543, 551 (9th Cir. 2023). Gorbey raised these claims in prior federal habeas petitions that were denied on the merits. *See Gorbey v. Taylor*, No. 1:15-cv-00644-RDP-JHE, 2015 WL 6699899, at *2 (N.D. Ala. Oct. 15, 2015), *report and recommendation adopted*, No. 1:15-cv-00644-RDP-JHE, 2015 WL 6689125 (N.D. Ala. Nov. 3, 2015) (addressing “face sheet” and time-served claims); *Gorbey v. United States*, 55 F. Supp. 3d 98, 103-05 (D.D.C. 2014) (addressing ineffective assistance of appellate counsel claim). The record does not show cause for bringing a successive petition, or that a fundamental miscarriage of justice will result from the failure to entertain these claims. *See Eldridge*, 70 F.4th at 551.

The district court also correctly concluded that it lacked habeas jurisdiction to consider Gorbey’s remaining claims—that he is actually innocent of the explosives-related convictions, he was sentenced under the wrong sentencing guidelines, his trial was illegal and unconstitutional, his statutes of conviction are unconstitutionally vague, he has been forcibly abducted, and his trial counsel rendered ineffective assistance—because he did not show that his D.C. Code § 23-110 remedy was “inadequate or ineffective to test the legality of his detention.” D.C. Code § 23-110(g); *see also Jones v. Hendrix*, 599 U.S. 465, 478 (2023) (explaining in connection with 28 U.S.C. § 2255 that “the saving clause preserves recourse to § 2241 in cases where unusual circumstances make it impossible or impracticable to seek relief in the sentencing court, as well as for challenges to detention other than collateral attacks on a sentence”); *Swain v. Pressley*, 430 U.S. 372, 375, 377 (1977) (explaining that D.C. Code § 23-110 is “comparable” to § 2255).

We do not consider arguments Gorbey raises for the first time on appeal. *See Cacoperdo v. Demosthenes*, 37 F.3d 504, 507 (9th Cir. 1994).

Counsel’s motion to withdraw is granted.

All other pending motions are denied.

AFFIRMED.