

United States Court of Appeals
For the Eighth Circuit

No. 23-1444

Demetrius Elishakim Jefferson

Petitioner - Appellant

v.

United States of America

Respondent - Appellee

Appeal from United States District Court
for the Southern District of Iowa - Central

Submitted: July 28, 2023

Filed: August 2, 2023

[Unpublished]

Before GRUENDER, BENTON, and GRASZ, Circuit Judges.

PER CURIAM.

Demetrius Jefferson was sentenced to 210 months in prison after a jury found him guilty of conspiracy to distribute marijuana, possession with intent to distribute marijuana, possessing a firearm in furtherance of a drug trafficking crime, and being a felon in possession of a firearm. After the judgment was affirmed on direct appeal, *United States v. Jefferson*, 975 F.3d 700 (8th Cir. 2020), Jefferson sought relief in a

28 U.S.C. § 2255 motion, which the district court¹ denied. The district court granted a certificate of appealability on one claim involving whether counsel was ineffective for failing to argue that the use of trash-pull evidence obtained in violation of Iowa law violated the Fourth Amendment.

Following our review, *see Thomas v. United States*, 737 F.3d 1202, 1206 (8th Cir. 2013), we conclude that the district court correctly denied relief on the claim, because Jefferson suffered no prejudice as a result of trial counsel’s failure to assert an unavailing Fourth Amendment challenge under Iowa law. *See California v. Greenwood*, 486 U.S. 35, 40 (1988) (holding that the Fourth Amendment does not prohibit a warrantless search and seizure of garbage left outside for collection); *Kimmelman v. Morrison*, 477 U.S. 365, 375 (1986) (prevailing on claim that counsel failed to competently litigate Fourth Amendment issue requires petitioner to demonstrate prejudice); *United States v. Lora-Andres*, 844 F.3d 781, 785 n.2 (8th Cir. 2016) (holding that evidence obtained in violation of state law is admissible in federal criminal trial if it was obtained without violating United States Constitution or federal law); *cf. State v. Wright*, 961 N.W.2d 396 (Iowa 2021) (holding that the warrantless seizure of garbage bags violated Iowa state constitution’s prohibition against unreasonable searches and seizures). We decline to expand the certificate of appealability to consider the additional claims raised in Jefferson’s *pro se* supplemental brief. *See Armstrong v. Hobbs*, 698 F.3d 1063, 1068 (8th Cir.2012) (noting that court of appeals panel may exercise its discretion to consider sua sponte issues beyond those specified in certificate of appealability).

The judgment of the district court is affirmed, and counsel’s motion to withdraw is granted.

¹The Honorable Robert W. Pratt, United States District Judge for the Southern District of Iowa.