

MAR 14 2017

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

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

BARRY ALAN LAYTON,

Petitioner-Appellant,

v.

STEVEN K. BORDIN, Chief Probation
Officer, Butte County,

Respondent-Appellee.

No. 15-15319

D.C. No. 2:14-cv-01153-WBS

MEMORANDUM*

Appeal from the United States District Court
for the Eastern District of California
William B. Shubb, District Judge, Presiding

Submitted March 8, 2017**

Before: LEAVY, W. FLETCHER, and OWENS, Circuit Judges.

Barry Alan Layton appeals from the district court's judgment denying his 28 U.S.C. § 2254 habeas corpus petition. We have jurisdiction under 28 U.S.C. § 2253. We review a district court's denial of a habeas corpus petition de novo,

* 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).

see Casey v. Moore, 386 F.3d 896, 904 (9th Cir. 2004), and we affirm.

Layton contends that his state conviction for carrying a concealed weapon under California Penal Code § 12025(a)(2) (2011) violates the Second Amendment. The state court’s rejection of this claim was not contrary to, or based upon an unreasonable application of, clearly established Supreme Court law. *See* U.S.C. § 2254(d)(1); *see also Peruta v. Cnty. of San Diego*, 824 F.3d 919, 939 (9th Cir. 2016) (en banc) (“[T]he Second Amendment right to keep and bear arms does not include, in any degree, the right of a member of the general public to carry concealed firearms in public.”).

We treat Layton’s additional argument 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).

AFFIRMED.