

NOT FOR PUBLICATION

FILED

UNITED STATES COURT OF APPEALS

OCT 18 2019

FOR THE NINTH CIRCUIT

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

MICHAEL A. HEARTSMAN,

No. 18-16110

Petitioner-Appellant,

D.C. No. 3:16-cv-06098-VC

v.

MEMORANDUM\*

ERIC ARNOLD, Warden; XAVIER  
BECERRA,

Respondents-Appellees.

Appeal from the United States District Court  
for the Northern District of California  
Vince Chhabria, District Judge, Presiding

Submitted October 15, 2019\*\*

Before: FARRIS, LEAVY, and RAWLINSON, Circuit Judges.

California state prisoner Michael A. Heartsman appeals pro se 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. Reviewing de novo, *see Smith v. Ryan*, 823 F.3d 1270, 1278 (9th Cir. 2016), we affirm.

---

\* 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)*.

Heartsman contends that the trial court committed misconduct by favoring the prosecution and exhibiting bias against the defense. We need not address appellee's contention that the claim is procedurally defaulted because it fails on the merits. *See Franklin v. Johnson*, 290 F.3d 1223, 1232 (9th Cir. 2002). None of the claimed instances of misconduct suggest the trial court harbored "deep-seated favoritism or antagonism that would make fair judgment impossible." *Liteky v. United States*, 510 U.S. 540, 555 (1994). The state court's rejection of this claim, therefore, was not contrary to, nor an unreasonable application of, clearly established federal law. *See* 28 U.S.C. § 2254(d)(1); *Williams v. Taylor*, 529 U.S. 362, 411 (2000).

We treat appellant's additional arguments 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.**