

Missouri v. Bazell, 497 S.W.3d 263 (Mo. banc 2016), invalidated all such enhancements under Mo. Rev. Stat. § 570.030.3 (2013). The habeas court dismissed the petition on March 2, 2017, for lack of jurisdiction.

Ground for relief

Petitioner brings one ground for relief. He argues that *Bazell* invalidated his sentence enhancement under § 570.030.3 (2013).

The Missouri Court of Appeals, Eastern District, agrees with petitioner that *Bazell* invalidated all of the sentence enhancements under the statute. *Missouri v. Bowen*, ---S.W.3d---, 2017 WL 361185 (Mo. Ct. App. Jan. 24, 2017). In *Bowen*, the court held that the enhancement for stealing in excess of \$500 could no longer be applied. *Id.* at *2 (citing cases).

Discussion

“[I]t is not the province of a federal habeas court to reexamine state-court determinations on state-law questions. In conducting habeas review, a federal court is limited to deciding whether a conviction violated the Constitution, laws, or treaties of the United States.” *Estelle v. McGuire*, 502 U.S. 62, 67-68 (1991); *see Poe v. Caspari*, 39 F.3d 204, 207 (8th Cir. 1994) (“Jurisdiction is no exception to the general rule that federal courts will not engage in collateral review of state court decisions based on state law.”); *Watts v. Bonneville*, 879 F.2d 685, 687 (9th Cir. 1989) (alleged violation of state sentencing statute not cognizable in federal habeas proceedings). Furthermore, a state prisoner “may not . . . transform a state-law issue into a federal one merely by asserting a violation of due process.” *Langford v. Day*, 110 F.3d 1380, 1389 (9th Cir. 1996).

In this case, petitioner’s claim is based solely on the Missouri courts’ interpretation of a state statute. As a result, it is not cognizable in federal habeas proceedings and must be

dismissed. *See* Fed. R. Civ. P. 12(h)(3). To the extent that petitioner has any available avenue to relief, it lies in state court.

Finally, petitioner has failed to demonstrate that jurists of reason would find it debatable whether jurisdiction exists in this matter. Thus, the Court will not issue a certificate of appealability. 28 U.S.C. § 2253(c).

Accordingly,

IT IS HEREBY ORDERED that petitioner's motion for leave to proceed in forma pauperis is **GRANTED**.

IT IS FURTHER ORDERED that the petition is **DENIED**, and this action is **DISMISSED**.

IT IS FURTHER ORDERED that the Court will not issue a certificate of appealability.

An Order of Dismissal will be filed forthwith.

Dated this 15th day of May, 2017.



JOHN A. ROSS
UNITED STATES DISTRICT JUDGE