

UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF
TEXAS, VICTORIA DIVISION

Damien Gabriel Garza v. Eric Guerrero

Garza v. Guerrero · No. 6:25-CV-00021 · Decided March 23, 2026

SUMMARY

The United States District Court for the Southern District of Texas rejects a magistrate judge’s Memorandum and Recommendation recommending summary judgment for the respondent and dismissal of Damien Gabriel Garza’s federal habeas petition. The court sustains Garza’s objections, finds that his prosecutorial misconduct and expert-witness claims were exhausted, and denies the respondent’s motion for summary judgment.

CASE DETAILS

COURT	United States District Court for the Southern District of Texas, Victoria Division
JURISDICTION	United States District Court for the Southern District of Texas, Victoria Division
DECIDED	March 23, 2026
DOCKET	6:25-CV-00021
DISPOSITION	other
PROCEDURAL POSTURE	Petitioner objected to a magistrate judge's Memorandum and Recommendation recommending summary judgment for Respondent, dismissal of the 28 U.S.C. § 2254 petition, and denial of a certificate of appealability. The district court conducted de novo review of the challenged portions of the M&R, sustained Petitioner's objection, rejected the M&R, and denied Respondent's motion for summary judgment.
STANDARD OF REVIEW	The district court conducts de novo review of portions of a magistrate judge's report and recommendation to which a specific objection is made under 28 U.S.C. § 636(b)(1)(C). Unobjected-to portions are reviewed for clear error or whether they are contrary to law.
PRECEDENTIAL VALUE	Unknown; district court order with no reported citation
PARTIES	Damien Gabriel Garza v. Eric Guerrero

TOPICS

federal habeas corpus

post-conviction relief

summary judgment

civil procedure

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PRACTICE AREAS

federal habeas corpus

criminal procedure

civil procedure

QUESTIONS PRESENTED

1. Whether the district court should reject the magistrate judge's recommendation after conducting de novo review of Petitioner's specific objections.
2. Whether Petitioner fairly presented and therefore exhausted his prosecutorial-misconduct claim in the Texas state courts.
3. Whether Respondent expressly waived the exhaustion defense as to Petitioner's expert-witness claim.
4. Whether, even absent waiver, Petitioner fairly presented and exhausted his expert-witness claim in both the Texas Court of Appeals and the Texas Court of Criminal Appeals.

HOLDINGS

1. Petitioner exhausted his prosecutorial-misconduct claim because he fairly presented the substance of that claim to the Texas Court of Appeals and then presented it to the Texas Court of Criminal Appeals in his petition for discretionary review.
2. Respondent expressly waived the exhaustion defense as to the expert-witness claim by seeking summary judgment solely on exhaustion grounds and treating the remaining claims as sufficiently exhausted.
3. Petitioner exhausted his expert-witness claim because the arguments presented to the Texas Court of Appeals and the Texas Court of Criminal Appeals were substantively the same, despite different descriptions in the headings.

KEY QUOTATIONS

"The exhaustion requirement is satisfied when the substance of the federal claim is 'fairly presented' to the highest state court on direct appeal or in state post-conviction proceedings, 'even if the state court fails to address the federal claim[.]'" (3/7)

"These express statements show that the state treated only one claim . . . as unexhausted. The rest ... It expressly treated as exhausted." (4/7)

FACTUAL BACKGROUND

Petitioner challenged his state-court criminal conviction under 28 U.S.C. § 2254. His petition included claims that the State improperly elicited testimony from a grand-jury foreman and that the state trial court improperly excluded expert testimony concerning the minor's cause of death. Petitioner asserted that he presented both claims to the Texas Court of Appeals and the Texas Court of Criminal Appeals.

PROCEDURAL HISTORY

Respondent moved for summary judgment on the ground that Petitioner failed to exhaust state-court remedies for at least one claim. The magistrate judge recommended granting the motion and dismissing the habeas petition. Petitioner timely objected, and the district court reviewed the disputed portions de novo, concluding that both the prosecutorial-misconduct claim and the expert-witness claim had been exhausted.

DISPOSITION

other

CASES CITED

- *Pe/ko v. Perales*, No. 23-CV-00339, 2024 WL 1972896, at *1 (S.D. Tex. May 3, 2024)
- *Edmond v. Collins*, 8 F.3d 290, 293 n.7 (5th Cir. 1993)
- *United States v. Wilson*, 864 F.2d 1219, 1221 (5th Cir. 1989) (per curiam)
- *Powell v. Litton Loan Servicing, L.P.*, No. 4:14-CV-02700, 2015 WL 3823141, at *1 (S.D. Tex. June 18, 2015)
- *Morris v. Dretke*, 379 F.3d 199, 204 (5th Cir. 2004)
- *Richardson v. Procnunier*, 762 F.2d 429, 431-32 (5th Cir. 1985)
- *Castille v. Peoples*, 489 U.S. 346, 349 (1989)
- *Earhart v. Johnson*, 132 F.3d 1062, 1065 (5th Cir. 1998)
- *Carty v. Thaler*, 583 F.3d 244, 256-57 & n.10 (5th Cir. 2009)
- *Soffar v. Dretke*, 368 F.3d 441, 467 (5th Cir. 2004)
- *Bledsue v. Johnson*, 188 F.3d 250, 254 (5th Cir. 1999)
- *McGee v. Estelle*, 722 F.2d 1206, 1213 (5th Cir. 1984) (en banc)
- *Johnson v. Cain*, 712 F.3d 227, 231 (5th Cir. 2013)
- *Myers v. Collins*, 919 F.2d 1074, 1077 (5th Cir. 1990)

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