

UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF
CALIFORNIA

Hazeltine v. Wallace

Hazeltine · No. 1:25-cv-00698-SKO (HC) · Decided June 11, 2025

SUMMARY

The United States District Court for the Eastern District of California recommends dismissal of Rick Hazeltine’s habeas petition under 28 U.S.C. § 2254. The court concludes that several claims challenging his 1994 conviction are successive and that another claim concerning state-court motion rulings is not cognizable on federal habeas review. The court recommends that Hazeltine be permitted to file an amended petition limited to non-successive claims challenging his civil commitment.

CASE DETAILS

COURT	United States District Court for the Eastern District of California
WRITING FOR THE COURT	Sheila K. Oberto
JURISDICTION	United States District Court for the Eastern District of California
DECIDED	June 11, 2025
DOCKET	1:25-cv-00698-SKO (HC)
DISPOSITION	dismissed
PROCEDURAL POSTURE	Magistrate judge's findings and recommendation on preliminary review of a pro se petition for a writ of habeas corpus under 28 U.S.C. § 2254.
STANDARD OF REVIEW	Preliminary screening under Rule 4 of the Rules Governing § 2254 Cases; dismissal is required when it plainly appears from the petition that the petitioner is not entitled to relief.
PARTIES	Rick Hazeltine v. Janine Wallace

QUESTIONS PRESENTED

- Whether claims challenging the 1994 conviction were second or successive under 28 U.S.C. § 2244(b) and therefore outside the district court's jurisdiction absent authorization from the Ninth Circuit.
- Whether the claim challenging the Tuolumne County Superior Court's disposition of motions presented a cognizable federal habeas claim.

3. Whether the petition should be dismissed at preliminary review and Hazeltine directed to file an amended petition limited to non-successive, cognizable claims concerning his civil commitment.

HOLDINGS

1. Claims challenging the 1994 conviction were second or successive because Hazeltine had previously pursued federal habeas relief concerning that conviction, and he had not obtained Ninth Circuit authorization to file another petition.
2. The claim challenging the Tuolumne County Superior Court's disposition of motions was not cognizable on federal habeas review because alleged errors in the application of state law and state procedure do not, without more, establish a federal constitutional violation.
3. The petition should be dismissed on preliminary review for presenting successive and noncognizable claims, with leave recommended to file an amended petition limited to non-successive claims challenging the civil commitment.

KEY QUOTATIONS

“Before a second or successive application permitted by this section is filed in the district court, the applicant shall move in the appropriate court of appeals for an order author” (at 2)

FACTUAL BACKGROUND

Hazeltine, proceeding pro se, filed a federal habeas petition concerning a 1994 Tuolumne County conviction for lewd and lascivious acts with a minor under fourteen and matters relating to his civil commitment. He previously sought federal habeas relief concerning the conviction in *Hazeltine v. Nelson*, Case No. 1:01-cv-05854-REC-HGB, and that petition was dismissed with prejudice as untimely. The current petition included claims concerning ineffective assistance, competency, alleged suppression of evidence, appellate rights, the validity of a juvenile plea, cumulative constitutional error, and state-court rulings on motions.

PROCEDURAL HISTORY

Hazeltine filed the petition on June 9, 2025, challenging matters relating to his 1994 Tuolumne County conviction and his civil commitment. On preliminary review under Rule 4, the court found several claims successive and another claim noncognizable because it challenged state-court procedure. The magistrate judge recommended dismissal and directed that an amended petition be filed presenting only non-successive, cognizable claims challenging the civil commitment; the matter was referred to a district judge for review after objections.

DISPOSITION

dismissed

REMAND INSTRUCTIONS

No remand. The recommendation directs that Hazeltine be permitted or directed to file an amended petition presenting only non-successive, cognizable claims challenging his civil commitment. The recommendation remains subject to district-judge review after objections.

OPINION

(HC) Hazeltine v. Wallace

PER CURIAM.

1 2 3 4 5 6 7 8

UNITED STATES DISTRICT COURT

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EASTERN DISTRICT OF CALIFORNIA

10 11 RICK HAZELTINE, Case No. 1:25-cv-00698-SKO (HC) 12 Petitioner, FINDINGS AND
RECOMMENDATION TO

DISMISS PETITION

13 v.

ORDER DIRECTING CLERK OF COURT

14 JANINE WALLACE, TO ASSIGN DISTRICT JUDGE

15 Respondent. [TWENTY-ONE DAY OBJECTION

DEADLINE]

16 17 Petitioner is a state civil committee proceeding pro se with a petition for writ of habeas 18
corpus pursuant to 28 U.S.C. § 2254. He filed the instant petition on June 9, 2025. Upon review 19
of the petition, the Court finds that several grounds for relief are successive. In addition, certain 20
grounds fail to present a cognizable claim. Therefore, the Court will recommend the petition be 21
dismissed and Petitioner be directed to file an amended petition presenting non-successive and 22
cognizable claims.

23 DISCUSSION

24 Rule 4 of the Rules Governing § 2254 Cases requires the Court to make a preliminary
25 review of each petition for writ of habeas corpus. The Court must dismiss a petition "[i]f it
plainly 26 appears from the petition . . . that the petitioner is not entitled to relief." Rule 4 of the
Rules 27 Governing § 2254 Cases; see also *Hendricks v. Vasquez*, 908 F.2d 490, 491 (9th Cir.
1990). A 1 no tenable claim for relief can be pleaded were such leave granted. *Jarvis v. Nelson*,
440 F.2d 13, 2 14 (9th Cir. 1971). 3 A. Successive Petition 4 A federal court must dismiss a second
or successive petition that raises the same grounds 5 as a prior petition. 28 U.S.C. § 2244(b)(1).
The court must also dismiss a second or successive 6 petition raising a new ground unless the
petitioner can show that 1) the claim rests on a new, 7 retroactive, constitutional right or 2) the
factual basis of the claim was not previously discoverable 8 through due diligence, and these new
facts establish by clear and convincing evidence that but for 9 the constitutional error, no
reasonable factfinder would have found the applicant guilty of the 10 underlying offense. 28

U.S.C. § 2244(b)(2)(A)-(B). However, it is not the district court that 11 decides whether a second or successive petition meets these requirements.

12 Section 2244 (b)(3)(A) provides: "Before a second or successive application permitted by
13 this section is filed in the district court, the applicant shall move in the appropriate court of
appeals 14 for an order authorizing the district court to consider the application." In other words,
Petitioner 15 must obtain leave from the Ninth Circuit before he can file a second or successive
petition in 16 district court. See *Felker v. Turpin*, 518 U.S. 651, 656-657 (1996). This Court must
dismiss any 17 second or successive petition unless the Court of Appeals has given Petitioner
leave to file the 18 petition because a district court lacks subject-matter jurisdiction over a second
or successive 19 petition. *Burton v. Stewart*, 549 U.S. 147, 152 (2007); *Cooper v. Calderon*, 274
F.3d 1270, 1274 20 (9th Cir. 2001). 21 Here, several of Petitioner's claims challenge his 1994
conviction in Tuolumne County of 22 lewd and lascivious acts with a minor under the age of
fourteen: 1) In ground one, Petitioner alleges 23 defense counsel was ineffective in failing to
pursue certain defenses; 2) In ground three, Petitioner 24 contends his conviction while mentally
incompetent constituted cruel and unusual punishment; 3) 25 In ground four, among other
contentions, Petitioner claims the government failed to disclose 26 certain evidence at trial; 4) In
ground five, Petitioner contends he was denied his right to a 27 meaningful first appeal; 5) In
ground twelve, Petitioner claims his juvenile plea is invalid because 1 thirteen, Petitioner
complains that the cumulative effect of multiple constitutional errors, including 2 alleged trial
errors, violated his due process rights. 3 Petitioner has previously sought federal habeas relief in
this Court with respect to the 1994 4 conviction in *Hazeltine v. Nelson*, Case No. 1:01-cv-05854-
REC-HGB. The petition was 5 dismissed with prejudice for violating the statute of limitations.
The Court finds that the afore- 6 mentioned grounds in the instant petition are "second or
successive" under 28 U.S.C. § 2244(b). 7 See *McNabb v. Yates*, 576 F.3d 1028, 1030 (9th Cir.
2009) ("We therefore hold that dismissal of 8 a section 2254 habeas petition for failure to comply
with the statute of limitations renders 9 subsequent petitions second or successive for purposes of
the AEDPA, 28 U.S.C. § 2244(b)"). 10 Petitioner makes no showing that he has obtained prior
leave from the Ninth Circuit to file his 11 successive petition. Therefore, this Court has no
jurisdiction to consider Petitioner's successive 12 grounds for relief under 28 U.S.C. § 2254 and
must dismiss the petition. See *Burton*, 549 U.S. at 13 157. 14 B. Failure to Present Cognizable
Claim 15 In ground nine, Petitioner takes issue with the Tuolumne County Superior Court's 16
disposition of various motions. Petitioner is advised that it is not a federal habeas court's function
17 to oversee state procedure. *Estelle v. McGuire*, 502 U.S. 62, 67 (1991) ("We have stated many
18 times that federal habeas corpus relief does not lie for errors of state law); *Langford v. Day*, 110
19 F.3d 1380, 1389 (9th Cir. 1997) ("alleged errors in the application of state law are not
cognizable 20 in federal habeas corpus" proceedings). Petitioner's attempt to transform his claim
into a violation 21 of federal constitutional rights by general, conclusory references to "federal due
process" is 22 unavailing. *Langford*, 110 F.3d at 1389 (a petitioner "may not . . . transform a state-

law issue into 23 a federal one merely by asserting a violation of due process”). Thus, the claim fails to present a 24 cognizable federal ground for relief and must be dismissed.

25 ORDER

26 Accordingly, the Clerk of Court is DIRECTED to assign a District Judge to this case.

27 RECOMMENDATION

1 DISMISSED for presenting successive and noncognizable claims. The Court RECOMMENDS 2 that Petitioner be directed to file an amended petition presenting only non-successive grounds for 3 relief, i.e., only those claims challenging his civil commitment. 4 This Findings and Recommendation is submitted to the United States District Court Judge 5 assigned to the case, pursuant to the provisions of 28 U.S.C. § 636 (b)(1)(B) and Rule 304 of the 6 Local Rules of Practice for the United States District Court, Eastern District of California. Within 7 twenty-one (21) days after being served with a copy of this Findings and Recommendation, a party 8 may file written objections with the Court and serve a copy on all parties. Id. The document should 9 be captioned, “Objections to Magistrate Judge’s Findings and Recommendation” and shall not 10 exceed fifteen (15) pages, except by leave of court with good cause shown. The Court will not 11 consider exhibits attached to the Objections. To the extent a party wishes to refer to any exhibit(s), 12 the party should reference the exhibit in the record by its CM/ECF document and page number, 13 when possible, or otherwise reference the exhibit with specificity. Any pages filed in excess of the 14 fifteen (15) page limitation may be disregarded by the District Judge when reviewing these 15 Findings and Recommendations pursuant to 28 U.S.C. § 636 (b)(1)(C). The parties are advised 16 that failure to file objections within the specified time may result in the waiver of rights on appeal. 17 *Wilkerson v. Wheeler*, 772 F.3d 834, 838-39 (9th Cir. 2014). This recommendation is not an order 18 that is immediately appealable to the Ninth Circuit Court of Appeals. Any notice of appeal pursuant 19 to Rule 4(a)(1), Federal Rules of Appellate Procedure, should not be filed until entry of the District 20 Court's judgment. 21 IT IS SO ORDERED. 22 23 Dated: June 11, 2025 /s/ Sheila K. Oberto .

UNITED STATES MAGISTRATE JUDGE

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