

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

OPINION

(HC) Hazeltine v. Wallace

PER CURIAM.

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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 through due diligence, and these new facts establish by clear and convincing evidence that but for the constitutional error, no reasonable factfinder would have found the applicant guilty of the underlying offense. 28 U.S.C. § 2244(b)(2)(A)-(B). However, it is not the district court that decides whether a second or successive petition meets these requirements.

Section 2244 (b)(3)(A) provides: "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 authorizing the district court to consider the application." In other words, Petitioner must obtain leave from the Ninth Circuit before he can file a second or successive petition in district court. See *Felker v. Turpin*, 518 U.S. 651, 656-657 (1996). This Court must dismiss any second or successive petition unless the Court of Appeals has given Petitioner leave to file the petition because a district court lacks subject-matter jurisdiction over a second or successive petition. *Burton v. Stewart*, 549 U.S. 147, 152 (2007); *Cooper v. Calderon*, 274 F.3d 1270, 1274-20 (9th Cir. 2001). Here, several of Petitioner's claims challenge his 1994 conviction in Tuolumne County of lewd and lascivious acts with a minor under the age of fourteen: 1) In ground one, Petitioner alleges defense counsel was ineffective in failing to pursue certain defenses; 2) In ground three, Petitioner contends his conviction while mentally incompetent constituted cruel and unusual punishment; 3) In ground four, among other contentions, Petitioner claims the government failed to disclose certain evidence at trial; 4) In ground five, Petitioner contends he was denied his right to a meaningful first appeal; 5) In ground twelve, Petitioner claims his juvenile plea is invalid because thirteen, Petitioner complains that the cumulative effect of multiple constitutional errors, including two alleged trial errors, violated his due process rights. Petitioner has previously sought federal habeas relief in this Court with respect to the 1994 conviction in *Hazeltine v. Nelson*, Case No. 1:01-cv-05854-REC-HGB. The petition was dismissed with prejudice for violating the statute of limitations. The Court finds that the aforementioned grounds in the instant petition are "second or successive" under 28 U.S.C. § 2244(b). See *McNabb v. Yates*, 576 F.3d 1028, 1030 (9th Cir. 2009) ("We therefore hold that dismissal of a section 2254 habeas petition for failure to comply with the statute of limitations renders subsequent petitions second or successive for purposes of the AEDPA, 28 U.S.C. § 2244(b)"). Petitioner makes no showing that he has obtained prior leave from the Ninth Circuit to file his successive petition. Therefore, this Court has no jurisdiction to consider Petitioner's successive grounds for relief under 28 U.S.C. § 2254 and must dismiss the petition. See *Burton*, 549 U.S. at 1357. B. Failure to Present Cognizable Claim In ground nine, Petitioner takes issue with the Tuolumne County Superior Court's disposition of various motions. Petitioner is advised that it is not a federal habeas court's function to oversee state procedure. *Estelle v. McGuire*, 502 U.S. 62, 67 (1991) ("We have stated many times that federal habeas corpus relief does not lie for errors of state law"); *Langford v. Day*, 110 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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