

UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF
CALIFORNIA

Jerry Grant Frye v. Warden of California State Prison at Stockton

Frye · No. 2:99-cv-00628-KJM-CKD · Decided October 7, 2025

SUMMARY

The United States District Court for the Eastern District of California denied Jerry Grant Frye’s motion for leave to amend his federal habeas corpus petition to add a claim concerning his former attorney’s alleged conflict of interest. The court concluded that the proposed claim was futile because Frye had not shown that California’s corrective process was unavailable or ineffective for purposes of the exhaustion requirement under 28 U.S.C. § 2254(b)(1)(B).

CASE DETAILS

COURT	United States District Court for the Eastern District of California
JURISDICTION	United States District Court for the Eastern District of California
DECIDED	October 7, 2025
DOCKET	2:99-cv-00628-KJM-CKD
DISPOSITION	other
PROCEDURAL POSTURE	Petitioner sought leave to amend a federal habeas corpus petition to add a claim concerning his former attorney's alleged conflict of interest. Respondent opposed the motion as futile because the proposed claim had not been exhausted in state court.
STANDARD OF REVIEW	Leave to amend may be denied when the proposed amendment would be futile. In the habeas context, a claim generally must be exhausted in state court unless no corrective process is available or the available process is ineffective; the petitioner bears the burden of establishing an exception.
PRECEDENTIAL VALUE	unpublished, nonprecedential district court order
PARTIES	Jerry Grant Frye v. Warden of California State Prison at Stockton

TOPICS

- federal habeas corpus
- post-conviction relief
- motion to amend
- pleadings
- state post-conviction relief

PRACTICE AREAS

federal habeas corpus

post-conviction relief

civil procedure

pleadings

QUESTIONS PRESENTED

1. Whether leave to amend the federal habeas petition should be denied as futile because the proposed conflict-of-interest claim had not been exhausted in state court.
2. Whether California's state corrective process was unavailable or ineffective under 28 U.S.C. § 2254(b)(1)(B) because of alleged delays and lack of funding.

HOLDINGS

1. The motion for leave to amend was denied as futile because Frye had not shown that the proposed claim qualified for an exception to the exhaustion requirement.
2. The alleged lack of funding did not, on the record presented, establish that California's corrective process was so dysfunctional as to be ineffective for purposes of the federal habeas exhaustion requirement.

KEY QUOTATIONS

“Having reviewed the parties’ briefs and the authorities they cite, the court cannot find on this record that California’s corrective system is so dysfunctional as to be “ineffective” for purposes of the applicable exhaustion requirement.” (at 2)

“For these reasons, the motion for leave to amend (ECF No. 705) is denied as futile.” (at 3)

FACTUAL BACKGROUND

Frye sought to add a federal habeas claim based on his former attorney's alleged conflict of interest. He argued that California's capital post-conviction process was ineffective because counties lacked funding for capital habeas litigation, hearings, discovery, and counsel. The court found no present delay to evaluate and concluded that Frye had not shown how his rights or claims would be impaired by pursuing the state corrective process.

PROCEDURAL HISTORY

Frye's federal habeas action was pending in the Eastern District of California. The court had previously granted the petition in part by vacating the death sentence. Frye then moved for leave to amend to add a conflict-of-interest claim; the court denied the motion as futile because he had not shown that California's corrective process was unavailable or ineffective.

DISPOSITION

other

CASES CITED

- In re Friend, In re Friend, 11 Cal. 5th 720

- Letner v. Broomfield, No. 18-1459, 2022 WL 10626051 (E.D. Cal. Oct. 18, 2022)
- Coe v. Thurman, 922 F.2d 528, 531 (9th Cir. 1990)
- Hill v. Chappell, No. 12-4909, 2012 WL 2340875, at *4 (C.D. Cal. June 19, 2012)

OPINION

Calderon

PER CURIAM.

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8 UNITED STATES DISTRICT COURT

9 FOR THE EASTERN DISTRICT OF CALIFORNIA

10 11 Jerry Grant Frye, DEATH PENALTY CASE 12 Petitioner, No. 2:99-cv-00628-KJM-CKD 1
v. ORDER 14 Warden of California State Prison at Stockton, 15 Respondent. 16 17 Petitioner
Jerry Frye seeks leave to amend his federal habeas corpus petition! in this 18 | action to add a
claim related to his previous attorney’s alleged conflict of interest. See generally 19 | Mot. Amend,
ECF No. 705. Respondent argues the proposed amendment would be futile because 20 | Frye has
not presented his new claim to the state court. See generally Opp’n, ECF No. 727. Frye 21 | argues
in response that as a matter of practical reality, California courts do not adjudicate post- 22 |
conviction challenges like the one he asks to add to his federal petition, and for that reason, 23 |
argues the proposed amendment need not be presented in the first instance and is therefore not 24 |
futile. See Mot. Amend at 12-14; Reply at 6-13, ECF No. 730. ‘Tn a previous order, this court
granted the petition in part by vacating the sentence of death. ECF No. 732. The court has retained
the “Death Penalty” heading here based on the sentence and petition as it stood at the time this
action was filed. 1 The parties agree federal courts may reject futile amendments to the pleadings,
including 2 in habeas corpus matters like this one. See Mot. Amend at 10; Opp’n at 1. The parties
also agree 3 it is generally futile to amend a habeas petition to add claims that have not already
been presented 4 to the state court, i.e., “exhausted.” See Mot. Amend at 12; Opp’n at 2. Finally,
the parties agree 5 there is an exception to that general exhaustion rule: a habeas petitioner is under
no obligation to 6 exhaust a claim if no “corrective process” is available or if the circumstances
make an available 7 process “ineffective.” See Mot. Amend at 12–13 (quoting 28 U.S.C. § 2254(b)
(1)(B)); Opp’n at 3 8 (same). The parties disagree whether California’s process is available and
effective. Compare 9 Mot. Amend at 13–14 and Reply at 6–13 with Opp’n at 4–7. 10 Frye does
not deny that California has a system for hearing and adjudicating post- 11 conviction challenges
in capital cases, at least on paper. Defendants may file postconviction 12 petitions for writs of
habeas corpus in the court in which the defendant was convicted. See Mot.

13 Amend at 13; Reply at 6–7. Frye argues it would be pointless to file such a petition here,
14 however, because “no money at all has been allotted by the legislature for any part of the
judicial 15 process” for capital habeas corpus petitions pending in California counties. Reply at 7.
“Not one 16 county in California,” he argues, “has allotted any funding at all for such litigation, or

for 17 payment of counsel.” Id. “[E]ven if present counsel were appointed by this Court to present Mr. 18 Frye’s claims to Amador County,” he contends “there would be no money available for a hearing, 19 discovery, or any other part of the habeas process.” Id. Respondent argues otherwise, citing a 20 case in which “federally appointed counsel [were] able to represent a state inmate throughout [the 21 applicable] state corrective process without obtaining an appointment from the state courts.” 22 Opp’n at 7 (citing *In re Friend*, 11 Cal. 5th 720). Respondent also relies on *Letner v. Broomfield*, 23 a case in which in another judge of this court rejected arguments based on the lack of any funding 24 in California courts. See id. (citing No. 18-1459, 2022 WL 10626051 (E.D. Cal. Oct. 18, 2022)). 25 Having reviewed the parties’ briefs and the authorities they cite, the court cannot find on 26 this record that California’s corrective system is so dysfunctional as to be “ineffective” for 27 purposes of the applicable exhaustion requirement. “Courts look to four factors in determining 28 whether the state’s delay in adjudicating a petitioner’s claim satisfies either of the 1 § 2254(b)(1)(B) exceptions or violates due process: (1) the length of the delay, (2) the reason for 2 the delay, (3) the defendant’s assertion of his right, and (4) prejudice to the defendant.” *Letner*, 3 2022 WL 10626051, at *4 (citing *Coe v. Thurman*, 922 F.2d 528, 531 (9th Cir. 1990) and *Hill v. 4 Chappell*, No. 12-4909, 2012 WL 2340875, at *4 (C.D. Cal. June 19, 2012)). It is the petitioner’s 5 burden to show a corrective process is unavailable or ineffective. See id. 6 With respect to the first of these factors, there has been no delay to evaluate. To assess 7 the length of any future delays, the court would need to speculate about how long the current state 8 of affairs is likely to persist and how Frye’s state-court petition is likely to fare. Similarly, with 9 respect to the fourth factor above, this court cannot assess the prejudice to Frye without 10 speculating about the relevant considerations, i.e., “(1) oppressive incarceration pending appeal, 11 (2) anxiety and concern of the accused awaiting the outcome of the appeal, and (3) the possibility 12 that grounds for appeal or defense upon any retrial will be impaired.” Id. at 7. Most importantly, 13 it is unclear how or why Frye’s rights might be impaired, given the years that have already passed 14 since his trial, the delays inherent in these federal proceedings, and this court’s recent order 15 granting his petition in part on other grounds. See id. (rejecting similar arguments because 16 petitioner had not shown his “claims have been or will be impaired by the ongoing state habeas 17 corrective process” or “the oppressiveness of his incarceration and any anxiety awaiting the 18 outcome of his second state habeas petition[] exceed that of any other habeas petitioner awaiting 19 adjudication of claims in the California state courts”). 20 For these reasons, the motion for leave to amend (ECF No. 705) is denied as futile. If 21 Frye does present his claims to the state court, this order does not bar him from arguing again in 22 this court that an effective corrective process is then not available in state court based on delays 23 and a lack of funding. 24 IT IS SO ORDERED. 25 DATED: October 6, 2025.