

**UNITED STATES DISTRICT COURT FOR THE CENTRAL DISTRICT OF
CALIFORNIA**

Richard Webb v. Leanna Lundy

Webb v. Lundy · No. CV 25-03655-SVW (AS) · Decided December 30, 2025

OPINION

Richard Webb v. Leanna Lundy

PER CURIAM.

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8 UNITED STATES DISTRICT COURT

9 CENTRAL DISTRICT OF CALIFORNIA – WESTERN DIVISION

10

11 RICHARD WEBB, CASE NO. CV 25-03655-SVW (AS)

12 Petitioner, ORDER OF DISMISSAL 13 v.

14 LEANNA LUNDY,

15 Respondent. 16

17 I. BACKGROUND

18 19 On April 24, 2025, Richard Webb, (“Petitioner”), a California 20 state prisoner proceeding
pro se, filed a Petition for Writ of 21 Habeas Corpus by a person in state custody pursuant to 28
U.S.C. § 22 2254 (“Petition”). (Dkt. No. 1). Petitioner challenges his 2012 23 convictions in the
Los Angeles County Superior Court (“LASC”), 24 (People v. Webb, LASC case No.
NA084058),¹ based on newly discovered 25 26 1 Following a jury trial, Petitioner was convicted
of 27 Error! Main Document Only.one count of first degree murder in violation of California
Penal Code (“P.C.”) § 187(a), one count of 28 1 evidence that a witness testified falsely at trial.
(Petition at 2 5). 3 4 On December 29, 2014, Petitioner filed a habeas corpus 5 petition pursuant to
28 U.S.C. § 2254 in this Court, challenging 6 the same 2012 convictions. Webb v. Barnes, United
States District 7 8 Court for the Central District of California case no. 14-9863- 9 SVW(KK)
(“Webb I”).² On November 24, 2015, the Court denied the 10 petition and dismissed Webb I with
prejudice. (Webb I, Dkt. Nos. 11 12 counts of child abuse in violation of P.C. § 273a(a), two
counts of possession of a firearm by a felon in violation of P.C. § 13 12021(a)(1), and three counts
of contempt of court in violation of P.C. § 166(c)(1). The jury also found true allegations that 14
Petitioner personally used a firearm within the meaning of P.C. § 12022.5(a) during the
commission of the shooting at an inhabited 15 dwelling and child abuse charges, Petitioner
personally used a 16 firearm within the meaning of P.C. § 12022.53(b-d) during the commission
of the murder, and Petitioner committed the murder and 17 related possession of a firearm by a
felon charge for the benefit of, at the direction of, or in association with a criminal street 18 gang

with the specific intent to promote, further, or assist in criminal conduct by gang members. In a bifurcated proceeding, 19 Petitioner admitted having suffered a prior felony conviction 20 within the meaning of P.C. § 667(a)(1) and § 1170.12(a). On February 28, 2012, the trial court sentenced Petitioner to 115 21 years and four months to life in state prison. 22 2 Error! Main Document Only. The Court takes judicial notice 23 of Webb I and the filings therein. See Fed. R. Evid. 201; Ray v. Lara, 31 F.4th 692, 697 n.4 (9th Cir. 2022) (“We may take judicial 24 notice of district court records.”); Error! Main Document 25 Only. United States v. Raygoza-Garcia, 902 F.3d 994, 1001 (9th Cir. 2018) (“A court may take judicial notice of undisputed matters of 26 public record, which may include court records available through PACER.”). 27 28 1 27-29). Petitioner appealed the denial of Webb I to the Ninth 2 Circuit Court of Appeals, which denied Petitioner a certificate of 3 appealability on August 19, 2016. (Webb I, Dkt. No. 36). 4 5 On September 9, 2025, the Court issued an Order requiring 6 Petitioner to Show Cause why this action should not be dismissed 7 8 because the instant Petition challenged the same convictions that 9 were challenged in Webb I. (Dkt No. 7). The Court’s Order, which 10 also included a detailed account of the petitions that Petitioner 11 had filed in the state courts, required Petitioner to respond no 12 later than September 30, 2025. (Id.). The Court subsequently 13 granted Petitioner’s request for additional time to respond to the 14 Court’s Order. (Dkt. Nos. 9, 11). On December 1, 2025, Petitioner 15 filed a response to the Court’s Order reiterating the same 16 17 arguments raised in the Petition but failing to address whether 18 the Petition should be dismissed without prejudice as a successive 19 petition which this Court lacks jurisdiction to consider. (Dkt. 20 No. 13). 21 22

II. DISCUSSION

23 24 25 The Antiterrorism and Effective Death Penalty Act of 1996 26 (“AEDPA”) “established a stringent set of procedures that a 27 prisoner ‘in custody pursuant to the judgment of a State court’ 28 1 must follow if he wishes to file a ‘second or successive’ habeas 2 corpus application challenging that custody[.]” *Burton v. Stewart*, 3 549 U.S. 147, 152 (2007) (per curiam) (citations omitted). In 4 particular, “[i]f an application is ‘second or successive,’ the 5 petitioner must obtain leave from the court of appeals before 6 filing it with the district court[.]” *Magwood v. Patterson*, 561 7 8 U.S. 320, 330-31 (2010) (citing 28 U.S.C. § 2244(b)(3)(A)); 9 *Banister v. Davis*, 590 U.S. 504, 509 (2020); *Stewart v. Martinez- 10 Villareal*, 523 U.S. 637, 641 (1998), and the appellate court “may 11 authorize the filing of the second or successive application only 12 if it presents a claim not previously raised that satisfies one of 13 the two [exceptions] articulated in § 2244(b) (2).” *Burton*, 549 14 U.S. at 153; *Banister*, 590 U.S. at 510. “One of these exceptions 15 is for claims predicated on newly discovered facts that call into 16 17 question the accuracy of a guilty verdict. The other is for certain 18 claims relying on new rules of constitutional law.” *Tyler v. Cain*, 19 533 U.S. 656, 661-62 (2001) (citations omitted); *Banister*, 590 U.S. 20 at 510; see also *Magwood*, 561 U.S. at 335 (Section 2244(b)(2) 21 “describes circumstances when a claim not presented earlier may be 22 considered: intervening and retroactive case law, or newly 23 discovered facts suggesting ‘that . . . no reasonable factfinder 24 25 would have found the

applicant guilty of the underlying offense.” 26 (citation omitted)). “Even if a petitioner can demonstrate that 27 he qualifies for one of these exceptions, he must seek 28 1 authorization from the court of appeals before filing his new 2 petition with the district court.” *Woods v. Carey*, 525 F.3d 886, 3 888 (9th Cir. 2008); *Turner v. Baker*, 912 F.3d 1236, 1238-39 (9th 4 Cir. 2019). “A petitioner’s failure to seek such authorization 5 from the appropriate appellate court before filing a second or 6 successive habeas petition acts as a jurisdictional bar.” *Rishor 7 8 v. Ferguson*, 822 F.3d 482, 490 (9th Cir. 2016); *Burton*, 549 U.S. 9 at 153. 10 11 The instant Petition and the prior habeas action (*Webb I*), 12 challenge Petitioner’s custody pursuant to the same 2012 judgment 13 entered by the Los Angeles County Superior Court. Accordingly, 14 the instant Petition, filed on April 24, 2025, well after the 15 effective date of the AEDPA, is a second or successive habeas 16 17 petition for purposes of 28 U.S.C. § 2244, which the Court lacks 18 jurisdiction to consider. See *Burton*, 549 U.S. at 153. (“*Burton* 19 twice brought claims contesting the same custody imposed by the 20 same judgment of a state court. As a result, under AEDPA, he was 21 required to receive authorization from the Court of Appeals before 22 filing his second challenge. Because he did not do so, the District 23 Court was without jurisdiction to entertain it.”); *Barapind v. 24 25 Reno*, 225 F.3d 1100, 1111 (9th Cir. 2000) (“[T]he prior-appellate- 26 review mechanism set forth in § 2244(b) requires the permission of 27 28 1 the court of appeals before ‘a second or successive habeas 2 application under § 2254’ may be commenced.”). 3 Because there is no indication that Petitioner has obtained 4 authorization from the Ninth Circuit Court of Appeals, this Court 5 cannot entertain the present Petition. See *Burton v. Stewart*, 549 6 eee purbon ve. vtewalrt 7 U.S. at 157; *Cooper V. Calderon*, 274 F.3d 1270, 1274 (9th Cir. g || 2001) (““When the AEDPA is in play, the district court may not, in 9 || the absence of proper authorization from the court appeals, 10 || consider a second or successive habeas application.””). 11 12

III. ORDER

13 14 1s ACCORDINGLY, IT IS ORDERED that the Petition is dismissed 16 without prejudice. 17 LET JUDGMENT BE ENTERED ACCORDINGLY. 18 DATED: December 30, 2025 19 aD 20 >< (pty f bey,

21 STEPHEN V. WILSON /

UNITED STATES DISTRICT JUDGE

22 23 || Presented by: 24

ALKA SAGAR

26 UNITED STATES MAGISTRATE JUDGE

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