

UNITED STATES DISTRICT COURT FOR THE CENTRAL DISTRICT OF
CALIFORNIA

Paul Edward Duran v. Warden

Duran v. Warden · No. 2:25-cv-09033-HDV-RAO · Decided September 26, 2025

SUMMARY

The United States District Court for the Central District of California summarily dismissed Paul Edward Duran’s successive 28 U.S.C. § 2254 habeas petition for lack of jurisdiction. The court determined that the petition challenged the same 2014 state conviction addressed in Duran’s prior habeas action and that he had not obtained authorization from the Ninth Circuit to file a successive petition. The dismissal was without prejudice, and the court denied a certificate of appealability.

CASE DETAILS

COURT	United States District Court for the Central District of California
WRITING FOR THE COURT	Hernan D. Vera
JURISDICTION	United States District Court for the Central District of California
DECIDED	September 26, 2025
DOCKET	2:25-cv-09033-HDV-RAO
DISPOSITION	dismissed
PROCEDURAL POSTURE	Petitioner filed a second or successive petition for a writ of habeas corpus under 28 U.S.C. § 2254. The district court sua sponte dismissed the petition without prejudice for lack of jurisdiction because Petitioner had not obtained authorization from the Ninth Circuit.
STANDARD OF REVIEW	Under Rule 4 of the Rules Governing Section 2254 Cases, a district court may dismiss a habeas petition based on the petition and attached exhibits when the petition plainly shows that the petitioner is not entitled to relief. A district court may sua sponte dismiss a second or successive petition for lack of jurisdiction.
PRECEDENTIAL VALUE	unpublished district court order; limited precedential value
PARTIES	Paul Edward Duran v. Warden, Lancaster Prison

TOPICS

federal habeas corpus

successive petitions

subject matter jurisdiction

appellate procedure

standard of review

PRACTICE AREAS

federal habeas corpus

post-conviction relief

appellate procedure

QUESTIONS PRESENTED

1. Whether the present § 2254 petition was a second or successive habeas petition because it challenged the same state-court conviction previously challenged in federal habeas proceedings.
2. Whether the district court had jurisdiction to consider the successive petition absent authorization from the Ninth Circuit under 28 U.S.C. § 2244(b)(3)(A).
3. Whether Petitioner was entitled to a certificate of appealability after the procedural dismissal.

HOLDINGS

1. The petition was a second or successive habeas petition because it challenged the same 2014 conviction previously challenged in a federal habeas action that was denied on the merits.
2. The district court lacked jurisdiction to consider the successive petition because Petitioner had not obtained authorization from the Ninth Circuit before filing it.
3. A certificate of appealability was denied because reasonable jurists could not debate the correctness of the procedural dismissal for lack of authorization to file a successive petition.

KEY QUOTATIONS

“Because Petitioner’s claims in the instant Petition challenge the same 2014 conviction previously challenged on the merits in a prior habeas action, the Court finds that the instant Petition is clearly second or successive.” (at 3)

“For these reasons, the Court finds that it lacks jurisdiction to consider the Petition.” (at 3-4)

“The Petition is DISMISSED without prejudice for lack of jurisdiction; and” (at 4)

FACTUAL BACKGROUND

Petitioner is incarcerated pursuant to a 2014 conviction in Los Angeles County Superior Court. He previously challenged that conviction in a federal habeas petition, which was denied on the merits and dismissed with prejudice. The present petition again challenges custody arising from the same conviction, and Petitioner had not obtained authorization from the Ninth Circuit to file a successive petition.

PROCEDURAL HISTORY

Petitioner previously filed a habeas petition challenging the same 2014 Los Angeles County Superior Court conviction in the Central District of California. The prior petition was denied on the merits and dismissed with prejudice in 2019. Petitioner then filed the present petition without obtaining authorization from the Ninth

Circuit to file a successive petition. The district court dismissed the petition without prejudice and denied a certificate of appealability.

DISPOSITION

dismissed

CASES CITED

- Duran v. Cate, No. 2:16-cv-02666 (C.D. Cal. Feb. 28, 2019)
- Burton v. Stewart, 549 U.S. 147, 152-53 (2007)
- Day v. McDonough, 547 U.S. 198, 205-06 (2006)
- Jones v. Davis, 8 F.4th 1027, 1035 (9th Cir. 2021)
- Gonzalez v. Crosby, 545 U.S. 524, 529-30 (2005)
- Felker v. Turpin, 518 U.S. 651, 656-57, 664 (1996)
- Balbuena v. Sullivan, 980 F.3d 619, 634-35 (9th Cir. 2020)
- Miller-El v. Cockrell, 537 U.S. 322, 327 (2003)
- Slack v. McDaniel, 529 U.S. 473, 478 (2000)

OPINION

1 2 3 4 5 6 7 8 UNITED STATES DISTRICT COURT 9 CENTRAL DISTRICT OF
CALIFORNIA 10 11 PAUL EDWARD DURAN, Case No. 2:25-cv-09033-HDV-RAO 12
Petitioner, ORDER SUMMARILY DISMISSING 13 v. SUCCESSIVE PETITION FOR WRIT OF
HABEAS CORPUS FOR LACK 14 WARDEN, Lancaster Prison, OF JURISDICTION AND
DENYING CERTIFICATE OF APPEALABILITY 15 Respondent. 16 17 I. BACKGROUND 18
On September 10, 2025, Petitioner Paul Edward Duran (“Petitioner”), 19 proceeding pro se and
requesting to proceed in forma pauperis, filed a Petition for 20 Writ of Habeas Corpus by a Person
in State Custody (“Petition”) pursuant to 28 21 U.S.C. § 2254.

Petitioner seeks habeas relief from his current state incarceration 22 arising from his 2014
conviction in Los Angeles County Superior Court, case no. 23 BA415427 (“2014 conviction”).
Dkt. No. 1 (“Pet.”) at 2. 24 The records of this Court establish that Petitioner previously filed a
habeas 25 petition in this District related to his 2014 conviction. See Duran v. Cate, Case No. 26
2:16-cv-02666 (C.D.

Cal. Apr. 19, 2016) (“2016 Petition”). The Court denied the 27 2016 Petition on the merits. See
Order Accepting Report and Recommendation, 28 1 Duran v. Cate, No. 2:16-cv-02666 (C.D. Cal.
Feb. 28, 2019), ECF No. 71.

The same 2 day, the Court entered judgment dismissing the 2016 Petition with prejudice. Id., 3
ECF No. 72. 4 A review of the instant Petition demonstrates that Petitioner again seeks federal 5

habeas relief from his present state custody arising from his 2014 conviction. Pet. at 6 2-3.

The Petition fails to establish that the Ninth Circuit has authorized Petitioner to 7 bring a successive petition in this Court. For the reasons stated below, the Court 8 dismisses the Petition for lack of jurisdiction. 9 II. STANDARD OF REVIEW 10 A district court may rely on the petition and any attached exhibits to dismiss a 11 petition that plainly shows that the petitioner is not entitled to habeas relief.

Rule 4, 12 Rules Governing Section 2254 Cases in the United States District Courts. Because 13 a district court's ability to hear a second or successive petition is jurisdictional, the 14 court may sua sponte dismiss the petition on that ground. See *Burton v. Stewart*, 549 15 U.S. 147, 152-53 (2007); *Day v. McDonough*, 547 U.S. 198, 205-06 (2006). 16 III. DISCUSSION 17 Habeas petitions filed after April 24, 1996, are governed by the Antiterrorism 18 and Effective Death Penalty Act ("AEDPA").

Jones v. Davis, 8 F.4th 1027, 1035 19 (9th Cir. 2021). The United States Supreme Court has explained: 20 The Antiterrorism and Effective Death Penalty Act of 1996 (AEDPA) established a stringent set of procedures that a 21 prisoner "in custody pursuant to the judgment of a State 22 court," 28 U.S.C. § 2254(a), must follow if he wishes to file a "second or successive" habeas corpus application 23 challenging that custody, § 2244(b)(1).

In pertinent part, 24 before filing the application in the district court, a prisoner "shall move in the appropriate court of appeals for an order 25 authorizing the district court to consider the application." 26 § 2244(b)(3)(A). A three-judge panel of the court of appeals may authorize the filing of the second or successive 27 application only if it presents a claim not previously raised 28 that satisfies one of the two grounds articulated in 1 § 2244(b)(2). § 2244(b)(3)(C); *Gonzalez v. Crosby*, 545 U.S. 524, 529-530, 125 S. Ct.

2641, 162 L. Ed. 2d 480 2 (2005); see also *Felker v. Turpin*, 518 U.S. 651, 656-657, 3 664, 116 S. Ct. 2333, 135 L. Ed. 2d 827 (1996). 4 *Burton*, 549 U.S. at 152-53. 5 Because Petitioner's claims in the instant Petition challenge the same 2014 6 conviction previously challenged on the merits in a prior habeas action, the Court 7 finds that the instant Petition is clearly second or successive.

Moreover, the Petition 8 and records of the Ninth Circuit establish that Petitioner has not sought, and been 9 granted, authorization by the Ninth Circuit to file a successive petition for the purpose 10 of raising his present claims. Petitioner must first seek authorization from the Ninth 11 Circuit to file his petition. *Balbuena v. Sullivan*, 980 F.3d 619, 634-35 (9th Cir.

12 2020). 13 For these reasons, the Court finds that it lacks jurisdiction to consider the 14 Petition. The reference to the Magistrate Judge is therefore vacated, and the Petition 15 is dismissed for lack of jurisdiction. *Burton*, 549 U.S. at 152-53. Any pending 16 motions are denied as moot, and the Clerk is directed to enter judgment dismissing 17 the Petition.

18 IV. CERTIFICATE OF APPEALABILITY 19 Under AEDPA, a state prisoner seeking to appeal a district court's final order 20 in a habeas corpus proceeding must obtain a Certificate of Appealability ("COA") 21 from the district judge or a circuit judge. 28 U.S.C. § 2253(c)(1)(A). A COA may 22 issue "only if the applicant has made a substantial showing of the denial of a 23 constitutional right." 28 U.S.C. § 2253(c)(2). "A petitioner satisfies this standard by 24 demonstrating that jurists of reason could disagree with the district court's resolution 25 of his constitutional claims or that jurists could conclude the issues presented are 26 adequate to deserve encouragement to proceed further." *Miller-El v. Cockrell*, 537 27 U.S. 322, 327 (2003).

28 1 When the Court dismisses a petition on procedural grounds, it must issue a 2 || COA if the petitioner shows: (1) "that jurists of reason would find it debatable 3 || whether the petition states a valid claim of the denial of a constitutional right"; and 4 || (2) "that jurists of reason would find it debatable whether the district court was 5 || correct in its procedural ruling." *Slack v. McDaniel*, 529 U.S. 473, 478 (2000).

6 Here, the Court is dismissing the Petition without prejudice because it is a 7 || successive petition without proper authorization from the Ninth Circuit. Since the 8 || Petition is patently a successive petition, Petitioner cannot make the requisite 9 || showing that jurists of reason would find it debatable whether the district court was 10 || correct in its procedural ruling.

11 || Vv. CONCLUSION 12 Based on the foregoing, IT IS ORDERED THAT: 13 1. The Petition is DISMISSED without prejudice for lack of jurisdiction; and 14 2. A Certificate of Appealability is DENIED. 15 16 || DATED: 9/26/25 (1 Ye ~~ 17 HERNAN D. VERA 18 UNITED STATES DISTRICT JUDGE 19 20 21 22 23 24 25 26 27 28