

**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

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 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