

UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF
CALIFORNIA

Gregory Allen Harms v. Edward Silva

Harms v. Silva · No. 2:25-cv-01048 DC CSK · Decided January 12, 2026

SUMMARY

The United States District Court for the Eastern District of California directs a state prisoner proceeding under 28 U.S.C. § 2254 to file his unexhausted habeas petition in Sacramento County Superior Court within 30 days. The court also orders a status report within 45 days and warns that noncompliance may result in a recommendation to vacate the stay under Kelly v. Small.

CASE DETAILS

COURT	United States District Court for the Eastern District of California
WRITING FOR THE COURT	Chi Soo Kim
JURISDICTION	United States District Court for the Eastern District of California
DECIDED	January 12, 2026
DOCKET	2:25-cv-01048 DC CSK
DISPOSITION	other
PROCEDURAL POSTURE	Petitioner sought federal habeas relief under 28 U.S.C. § 2254. After the court stayed the action to permit exhaustion of unexhausted claims, the court issued an order directing petitioner to file a state habeas petition and a status report.
PRECEDENTIAL VALUE	nonprecedential
PARTIES	Gregory Allen Harms v. Edward Silva

TOPICS

- federal habeas corpus
- state post-conviction relief
- post-conviction relief
- civil procedure

PRACTICE AREAS

- habeas corpus
- post-conviction relief
- civil procedure

QUESTIONS PRESENTED

1. Whether the court should require petitioner to file the state habeas petition within a specified period as a condition of continuing the stay.
2. What consequence should follow if petitioner fails to comply with the filing and status-report requirements.

HOLDINGS

1. The court required petitioner to file the habeas corpus petition discussed in his status reports in the Sacramento County Superior Court within thirty days of the order.
2. The court required petitioner to file, within forty-five days, a status report stating when the state habeas petition was filed and clarifying whether it amended the petition filed May 22, 2025.
3. If petitioner fails to comply with the filing and reporting requirements, the court will recommend that the stay of the federal habeas action be vacated.

KEY QUOTATIONS

“If petitioner fails to act within the allotted time, the stay may be vacated[.]” (at 2)

FACTUAL BACKGROUND

Petitioner is a state prisoner pursuing federal habeas relief through counsel. The federal court stayed the proceeding so petitioner could exhaust unexhausted claims in state court. Although petitioner reported filing a state habeas petition on May 22, 2025, and receiving an extension of time to clarify or amend it, the court determined from the status reports that the amended petition had still not been filed.

PROCEDURAL HISTORY

The court granted petitioner’s motion to stay on July 17, 2025, under the procedure described in *Kelly v. Small*, pending exhaustion of unexhausted claims in state court. The court required periodic status reports. Petitioner filed reports on October 9, 2025, and January 7, 2026, but the latter was virtually identical to the former and indicated that petitioner had not yet filed the amended state petition. The court therefore ordered petitioner to file the state petition within thirty days and a further status report within forty-five days, warning that noncompliance would result in a recommendation that the federal stay be vacated.

DISPOSITION

other

CASES CITED

- *Kelly v. Small*, 315 F.3d 1063 (9th Cir. 2002)