

UNITED STATES DISTRICT COURT FOR THE DISTRICT OF KANSAS

Richard Chantez Butler v. Gloria Geither

Butler v. Geither · No. 25-3280-JWL · Decided May 18, 2026

SUMMARY

The United States District Court for the District of Kansas addresses a federal habeas petition under 28 U.S.C. § 2254 filed by Richard Chantez Butler. The court concludes that Grounds One through Six were exhausted, but Ground Seven—an ineffective-assistance claim—was not fairly presented to the Kansas appellate courts and appears subject to anticipatory procedural default. The court grants Butler until June 18, 2026, to show cause why Ground Seven should not be dismissed and denies his motion to amend the case law supporting Grounds Four and Seven.

CASE DETAILS

COURT	United States District Court for the District of Kansas
WRITING FOR THE COURT	John W. Lungstrum
JURISDICTION	United States District Court for the District of Kansas
DECIDED	May 18, 2026
DOCKET	25-3280-JWL
DISPOSITION	other
PROCEDURAL POSTURE	Initial review of an amended state-prisoner petition for a writ of habeas corpus under 28 U.S.C. § 2254, following Respondent's limited pre-answer response addressing exhaustion. The court ordered Petitioner to show cause why Ground Seven should not be dismissed for anticipatory procedural default and denied his motion to amend case law.
STANDARD OF REVIEW	Under Rule 4 of the Rules Governing Section 2254 Cases, the court must review a habeas petition and dismiss it if it plainly appears from the petition and attached exhibits that the petitioner is not entitled to relief. Exhaustion requires fair presentation of the federal claim to the state appellate courts. A claim that was not presented and would now be procedurally barred in state court is subject to anticipatory procedural default.
PRECEDENTIAL VALUE	Nonprecedential district court memorandum and order; precedential status not stated.

PARTIES

Richard Chantez Butler v. Gloria Geither

TOPICS

federal habeas corpus

successive petitions

post-conviction relief

ineffective assistance

sixth amendment

PRACTICE AREAS

Federal habeas corpus

State post-conviction relief

Criminal procedure

Appellate procedure

QUESTIONS PRESENTED

1. Whether Ground Four and Ground Seven of the amended habeas petition asserted the same ineffective-assistance-of-trial-counsel claim for exhaustion purposes.
2. Whether Ground Seven was fairly presented to the Kansas appellate courts and therefore exhausted.
3. Whether Ground Seven was subject to anticipatory procedural default because Butler could no longer return to state court to exhaust it.
4. Whether Butler's lack of appointed counsel in state post-conviction proceedings established cause to excuse the anticipated procedural default.
5. Whether Butler's motion to amend case law to add *Olden v. Kentucky* should be granted.

HOLDINGS

1. Ground Four and Ground Seven were different claims because they relied on different alleged instances and reasons for trial counsel's ineffectiveness; exhaustion of Ground Four did not exhaust Ground Seven.
2. Ground Seven was not properly exhausted because Butler did not fairly present the ineffective-assistance claim to either the Kansas Court of Appeals or the Kansas Supreme Court.
3. Ground Seven appeared to be barred by anticipatory procedural default because Butler identified no remaining state-court avenue for exhaustion and a future K.S.A. 60-1507 motion would likely be treated as successive.
4. The absence of appointed counsel in Butler's state post-conviction proceedings did not constitute cause to overcome the anticipated procedural default.
5. The motion to amend case law was denied because it did not explain the relevance of *Olden v. Kentucky* or identify the document Butler sought to amend.

KEY QUOTATIONS

“For a federal court to consider a federal constitutional claim in an application for habeas, the claim must be ‘fairly presented to the state courts’”

“the crucial inquiry is whether the ‘substance’ of the petitioner's claim has been presented to the state courts in a manner sufficient to put the courts on notice of the federal constitutional claim.”

“The Court will grant Petitioner time in which to identify any way by which he could return to state court to now exhaust Ground Seven.”

FACTUAL BACKGROUND

In March 2020, a Kansas jury convicted Richard Chantez Butler of multiple offenses, including rape, aggravated criminal sodomy, criminal threat, aggravated kidnapping, aggravated robbery, and related offenses. In July 2020, the state district court sentenced him to a controlling term of 543 months. Butler's direct appeal resulted in an initial decision vacating the aggravated-kidnapping conviction, but the Kansas Supreme Court later reversed that ruling. Butler subsequently pursued state post-conviction relief, which was denied, and then filed this federal habeas petition asserting seven grounds, including an ineffective-assistance claim in Ground Seven concerning evidence from a domestic-violence assessment and rape kit.

PROCEDURAL HISTORY

A Kansas jury convicted Butler of numerous offenses, and the state district court imposed a controlling sentence of 543 months. The Kansas Court of Appeals vacated the aggravated-kidnapping conviction, but the Kansas Supreme Court reversed that portion of the decision. Butler later sought state post-conviction relief under K.S.A. 60-1507; the state district court denied relief, the Kansas Court of Appeals affirmed, and the Kansas Supreme Court denied review. Butler then filed this federal habeas action and an amended petition. The federal court concluded Grounds One through Six were exhausted but that Ground Seven was apparently unexhausted and subject to anticipatory procedural default, giving Butler an opportunity to respond before dismissal.

DISPOSITION

other

CASES CITED

- State v. Butler, 2022 WL 3692866, *13 (Kan. Ct. App. Aug. 26, 2022) (unpublished)
- State v. Butler, 317 Kan. 605, 606 (2023)
- Butler v. State, 2025 WL 733370, *1-3 (Kan. Ct. App. Mar. 7, 2025) (unpublished)
- James v. Wadas, 724 F.3d 1312, 1315 (10th Cir. 2013)
- Garrett v. Selby Connor Maddux & Janer, 425 F.3d 836, 840 (10th Cir. 2005)
- Childers v. Crow, 1 F.4th 792, 798 (10th Cir. 2021)
- Fontenot v. Crow, 4 F.4th 982, 1018, 1028, 1031-33 (10th Cir. 2021)
- Harris v. Champion, 15 F.3d 1538, 1544 (10th Cir. 1994)
- Bland v. Simmons, 459 F.3d 999, 1011 (10th Cir. 2006)
- Picard v. Connor, 404 U.S. 270, 275-76 (1971)
- Miranda v. Cooper, 967 F.2d 392, 398 (10th Cir. 1992)
- Parkhurst v. Pacheco, 809 F. App'x 556, 557 (10th Cir. 2020)
- O'Sullivan v. Boerckel, 526 U.S. 838, 844 (1999)

- Honie v. Powell, 58 F.4th 1173, 1184 (10th Cir. 2023)
- Smallwood v. Gibson, 191 F.3d 1257, 1267 (10th Cir. 1999)
- State v. Burnett, 297 Kan. 447, 448, 453 (2013)
- Wilder v. Turner, 490 F.3d 810, 814 (10th Cir. 2007)
- Anderson v. Sirmons, 476 F.3d 1131, 1139 n.7 (10th Cir. 2007)
- Gray v. Netherland, 518 U.S. 152, 162 (1996)
- Coleman v. Thompson, 501 U.S. 722, 725, 750 (1991)
- Murray v. Carrier, 477 U.S. 478, 488 (1986)
- McCleskey v. Zant, 499 U.S. 467, 493-94 (1991)
- Quintana v. Hansen, 733 F. App'x 439, 444 (10th Cir. 2018) (unpublished)
- Beavers v. Saffle, 216 F.3d 918, 923 (10th Cir. 2000)
- O'Bryant v. Oklahoma, 568 F. App'x 632, 637 (10th Cir. 2014)
- Bousley v. United States, 523 U.S. 614, 623 (1998)
- House v. Bell, 547 U.S. 518, 536-37 (2006)
- Schlup v. Delo, 513 U.S. 298, 324, 327-28 (1995)
- Taylor v. Powell, 7 F.4th 920, 927 (10th Cir. 2021)
- Fontenot v. Crow, 4 F.4th 982, 1031-33 (10th Cir. 2021)
- Olden v. Kentucky, 488 U.S. 227 (1988)