

UNITED STATES DISTRICT COURT FOR THE DISTRICT OF ARIZONA

Leon Bailey, Jr. v. Ryan F. Thornell, et al.

Bailey v. Thornell · No. CV-25-01145-PHX-SPL · Decided April 16, 2026

SUMMARY

The United States District Court for the District of Arizona adopted the magistrate judge’s Report and Recommendation in a 28 U.S.C. § 2254 habeas corpus action. The court held that most of the petitioner’s claims were unexhausted and procedurally defaulted, and that the remaining ineffective-assistance claims failed on the merits. The amended petition was denied and dismissed with prejudice, and a certificate of appealability and leave to proceed in forma pauperis on appeal were denied.

CASE DETAILS

COURT	United States District Court for the District of Arizona
JURISDICTION	United States District Court for the District of Arizona
DECIDED	April 16, 2026
DOCKET	CV-25-01145-PHX-SPL
DISPOSITION	dismissed
PROCEDURAL POSTURE	Petitioner filed an amended petition for a writ of habeas corpus under 28 U.S.C. § 2254. After the magistrate judge issued a report and recommendation, petitioner filed objections, and the district court conducted de novo review of the properly objected-to portions.
STANDARD OF REVIEW	De novo review of those portions of a magistrate judge's report and recommendation to which a party makes specific, timely objections; portions not specifically objected to need not be reviewed. Consideration of new evidence or arguments raised for the first time in objections is discretionary.
PRECEDENTIAL VALUE	unpublished district court order
PARTIES	Leon Bailey, Jr. v. Ryan F. Thornell, et al.

TOPICS

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

PRACTICE AREAS

QUESTIONS PRESENTED

1. Whether the magistrate judge's report and recommendation should be reviewed de novo in light of petitioner's objections.
2. Whether petitioner's claims in Grounds One through Seven(a)-(e) were unexhausted and procedurally defaulted.
3. Whether petitioner established ineffective assistance of counsel on the exhausted claims in Grounds Seven(f)-(h).
4. Whether the amended § 2254 petition should be denied and dismissed with prejudice.

HOLDINGS

1. A district judge reviews de novo the portions of a report and recommendation that are specifically and properly objected to, and need not review portions to which no specific objection is made.
2. Petitioner's claims in Grounds One, Two, Three, Four, Five, Six, and Seven(a)-(e) were not properly exhausted and were procedurally defaulted.
3. Petitioner failed to establish that counsel's performance fell below an objective standard of reasonableness on the exhausted ineffective-assistance claims.

KEY QUOTATIONS

“A district judge “may accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge.”” (at 1)

“When a party files a timely objection to an R&R, the district judge reviews de novo those portions of the R&R that have been “properly objected to.”” (at 1)

FACTUAL BACKGROUND

Petitioner sought federal habeas relief under 28 U.S.C. § 2254, asserting multiple grounds for relief, including ineffective assistance of counsel. The record showed that Grounds One through Seven(a)-(e) had not been properly exhausted and were procedurally defaulted. The ineffective-assistance claims in Grounds Seven(f)-(h) were exhausted, but petitioner did not demonstrate that counsel's performance fell below an objective standard of reasonableness.

PROCEDURAL HISTORY

The magistrate judge recommended denying the amended § 2254 petition because Grounds One through Seven(a)-(e) were unexhausted and procedurally defaulted, while the ineffective-assistance claims in Grounds Seven(f)-(h), although exhausted, failed on the merits. The district court reviewed the objections and record, adopted the report and recommendation in full, denied and dismissed the petition with prejudice, denied a certificate of appealability and leave to proceed in forma pauperis on appeal, and directed the clerk to terminate the action.

DISPOSITION

dismissed

CASES CITED

- United States v. Reyna-Tapia, 328 F.3d 1114, 1121 (9th Cir. 2003)
- Thomas v. Arn, 474 U.S. 140, 149 (1985)
- United States v. Howell, 231 F.3d 615, 621-622 (9th Cir. 2000)

OPINION

IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF ARIZONA Leon B ailey, Jr.,) No. CV-25-01145-PHX-SPL)) Petitioner,) ORDER vs.)) Ryan F. Thornell, et al.,)) Respondents.)) The Court has before it, Petitioner’s Amended Petition for Writ of Habeas Corpus pursuant to 28 U.S.C. § 2254 (Doc. 7), the Answer from the Respondents (Doc.

12), and a Reply from the Petitioner (Doc. 13). Additionally, the Court has also considered the Report and Recommendation (“R&R”) from the Magistrate Judge (Doc. 14), Petitioner’s Objections (Doc. 21), and Respondents’ Response (Doc. 23). A district judge “may accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge.” 28 U.S.C. § 636(b).

When a party files a timely objection to an R&R, the district judge reviews de novo those portions of the R&R that have been “properly objected to.” Fed. R. Civ. P. 72(b). A proper objection requires specific written objections to the findings and recommendations in the R&R. See United States v. Reyna-Tapia, 328 F.3d 1114, 1121 (9th Cir. 2003); 28 U.S.C. § 636(b) (1).

It follows that the Court need not conduct any review of portions to which no specific objection has been made. See Reyna-Tapia, 328 F.3d at 1121; see also Thomas v. Arn, 474 U.S. 140, 149 (1985) (discussing the inherent purpose of limited review is judicial economy). Further, a party is not entitled as of right to de novo review of evidence or arguments which are raised for the first time in an objection to the R&R, and the Court’s decision to consider them is discretionary.

United States v. Howell, 231 F.3d 615, 621-622 (9th Cir. 2000). The Court has carefully undertaken an extensive review of the sufficiently developed record. The Petitioner’s objections to the findings and recommendations have also been thoroughly considered. After conducting a de novo review of the issues and objections, the Court reaches the same conclusions reached by the magistrate judge.

This Court finds Judge Bachus correctly concluded that Petitioner's claims in Grounds One, Two, Three, Four, Five, Six, 11 | and Seven (a){e) were not properly exhausted and procedurally defaulted. (Doc. 14 at 18- 22).

The Court further agrees that Petitioners claims for ineffective assistance of counsel 13 | in Grounds Seven (f)-(h) were properly exhausted but he failed to show how counsel's 14 performance fell below an objective standard of reasonableness. (Doc. 14 at 22-27).

The 15 | R&R will be adopted in full. 16 Accordingly, 17 IT IS ORDERED: 18 1. That Magistrate Judge Alison S. Bachus's Report and Recommendation 19 | (Doc. 14) is accepted and adopted by the Court; 20 2. That the Amended Petition for Writ of Habeas Corpus pursuant to 28 U.S.C. 21| § 2254 (Doc. 7) is denied and dismissed with prejudice; 22 3. That a certificate of appealability and leave to proceed in forma pauperis on 23 | appeal are denied; and 24 4.

That the Clerk of Court shall enter judgment and terminate this action. 25 Dated this 15th day of April, 2026. 26 28 United States District ladge