

UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF CALIFORNIA

Edward V. Ray, Jr. v. Martin Gamboa

No. 25-cv-09357-VC, United States District Court for the Northern District of California (January 5, 2026)

SUMMARY

The United States District Court for the Northern District of California dismissed without prejudice Edward Ray, Jr.’s second or successive 28 U.S.C. § 2254 habeas petition because he had not yet obtained authorization from the Ninth Circuit to proceed. The court granted in forma pauperis status, denied a certificate of appealability, and directed the clerk to close the case.

CASE DETAILS

|                       |                                                                                                                                                                                                                                                                                                                                                                                 |
|-----------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| COURT                 | United States District Court for the Northern District of California                                                                                                                                                                                                                                                                                                            |
| WRITING FOR THE COURT | Vince Chhabria                                                                                                                                                                                                                                                                                                                                                                  |
| JURISDICTION          | United States District Court for the Northern District of California                                                                                                                                                                                                                                                                                                            |
| DECIDED               | January 5, 2026                                                                                                                                                                                                                                                                                                                                                                 |
| DOCKET                | 25-cv-09357-VC                                                                                                                                                                                                                                                                                                                                                                  |
| DISPOSITION           | dismissed                                                                                                                                                                                                                                                                                                                                                                       |
| PROCEDURAL POSTURE    | State prisoner filed a second or successive petition for a writ of habeas corpus under 28 U.S.C. § 2254 while his application for authorization to file such a petition was pending before the Ninth Circuit.                                                                                                                                                                   |
| STANDARD OF REVIEW    | A district court lacks authority to consider a second or successive § 2254 petition unless the petitioner first obtains authorization from the court of appeals. A certificate of appealability requires a showing that reasonable jurists could debate whether the petition should have been resolved differently or that the issues deserve encouragement to proceed further. |
| PRECEDENTIAL VALUE    | Unpublished district court order; precedential status not stated.                                                                                                                                                                                                                                                                                                               |

TOPICS

- federal habeas corpus
- successive petitions
- post-conviction relief
- appellate procedure
- writ of certiorari

PRACTICE AREAS

## QUESTIONS PRESENTED

1. Whether the district court could entertain Ray's second or successive § 2254 petition while his application for Ninth Circuit authorization remained pending.
2. Whether Ray was entitled to a certificate of appealability from the dismissal.

## HOLDINGS

1. A district court may not consider a second or successive § 2254 petition unless the petitioner first obtains an order from the appropriate court of appeals authorizing the district court to consider it. Because Ray's authorization request was still pending, the district court dismissed the petition without prejudice.
2. A certificate of appealability will not issue because reasonable jurists would not find the district court's assessment debatable or wrong.

## KEY QUOTATIONS

*“Ray must first obtain from the Ninth Circuit an order authorizing this court to consider the petition before he can proceed in this court.”*

*“Because his request for such an order from the Ninth Circuit is currently pending, the petition is dismissed in this court without prejudice to refiling if Ray obtains the order from the Ninth Circuit.”*

## FACTUAL BACKGROUND

Edward V. Ray, Jr., a state prisoner at Avenal State Prison, sought federal habeas relief from a 2007 state conviction. He had previously filed habeas petitions challenging that conviction. He also filed an application in the Ninth Circuit for authorization to file a second or successive § 2254 petition, attaching an identical or substantially similar petition, and that application was pending when he filed in the district court.

## PROCEDURAL HISTORY

Edward V. Ray, Jr. challenged a 2007 Alameda County Superior Court conviction in a § 2254 petition filed in the Northern District of California on October 30, 2025. Ray had filed prior habeas petitions and had also sought Ninth Circuit authorization to file a second or successive petition; that application remained pending. The district court dismissed the petition without prejudice, granted leave to proceed in forma pauperis, denied a certificate of appealability, and directed the clerk to close the file and enter judgment.

## DISPOSITION

dismissed

## CASES CITED

- Chades v. Hill, Chades v. Hill, 976 F.3d 1055, 1056-57 (9th Cir. 2020)

- Slack v. McDaniel, 529 U.S. 473, 484 (2000)

## OPINION

UNITED STATES DISTRICT COURT NORTHERN DISTRICT OF CALIFORNIA EDWARD V. RAY, JR., Case No. 25-cv-09357-VC Plaintiff, ORDER OF DISMISSAL OF SECOND v. OR SUCCESSIVE PETITION; DENYING CERTIFICATE OF MARTIN GAMBOA, APPEALABILITY Defendant. Edward Ray, Jr., a state prisoner at Avenal State Prison, filed a petition for a writ of habeas corpus on October 30, 2025, under 28 U.S.C. § 2254, challenging a 2007 state conviction from the Alameda County Superior Court.

Ray has filed previous petitions for writ of habeas corpus challenging his 2007 conviction. Additionally, Ray filed an application for leave to file a second or successive section 2254 petition in the United States Court of Appeals for the Ninth Circuit on June 6, 2025, attaching the identical or substantially similar petition that he then filed in this court almost five months later.

His Ninth Circuit petition was docketed as Case No. 25- 3974. On September 19, 2025, the Ninth Circuit entered an order finding that Ray's application to file a second or successive petition raised issues that warranted further briefing, and appointed counsel. Ray's counsel Yevgeniy Mikhail Parkman filed a notice of appearance on October 1, 2025. Ray must first obtain from the Ninth Circuit an order authorizing this court to consider the petition before he can proceed in this court.

See 28 U.S.C. § 2244(b)(3)(A); Chades v. Hill, 976 F.3d 1055, 1056-57 (9th Cir. 2020) (district court is without power to entertain successive petition unless petitioner first receives authorization from court of appeal).

Because his request for such an order from the Ninth Circuit is currently pending, the petition is dismissed in this court without prejudice to refile if Ray obtains the order from the Ninth Circuit. The motion for leave to proceed in forma pauperis is granted. A certificate of appealability will not issue. See 28 U.S.C. § 2253(c). This is not a case in which "reasonable jurists would find the district court's assessment of the constitutional claims debatable or wrong." Slack v. McDaniel, 529 U.S. 473, 484 (2000).

The clerk shall close the file and enter judgment in accordance with this order. The clerk shall send a courtesy copy of this order to Ray's counsel in the Ninth Circuit matter at [jenya\\_parkman@fd.org](mailto:jenya_parkman@fd.org). IT IS SO ORDERED. Dated: January 5, 2026 = VINCE CHHABRIA United States District Judge