

UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF
CALIFORNIA

Juan Ortega Morales, III v. M. McVay, et al.

Morales v. McVay · No. 2:24-cv-1647 KJM CSK P · Decided May 29, 2025

SUMMARY

The document contains findings and recommendations in a federal habeas corpus action under 28 U.S.C. § 2254. The magistrate judge concludes that all claims challenging the petitioner’s murder conviction, counsel’s effectiveness, and the voluntariness of his no-contest plea were unexhausted in state court. The court recommends denying the motion for a Rhines stay and dismissing the action without prejudice for failure to exhaust state remedies.

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	May 29, 2025
DOCKET	2:24-cv-1647 KJM CSK P
DISPOSITION	other
PROCEDURAL POSTURE	Findings and recommendations on a state prisoner’s petition for a writ of habeas corpus under 28 U.S.C. § 2254 and motion for a Rhines stay.
STANDARD OF REVIEW	The court independently analyzed whether petitioner fairly presented each federal claim to the California Supreme Court and applied the requirements for a Rhines stay: good cause for failure to exhaust, potentially meritorious unexhausted claims, and absence of intentionally dilatory litigation tactics.
PRECEDENTIAL VALUE	nonprecedential
PARTIES	Juan Ortega Morales, III v. M. McVay, et al.

TOPICS

- federal habeas corpus
- post-conviction relief
- ineffective assistance
- plea bargaining
- due process

PRACTICE AREAS

QUESTIONS PRESENTED

1. Whether petitioner exhausted the federal constitutional claims raised in his § 2254 petition by fairly presenting them to the California Supreme Court.
2. Whether the California Supreme Court's citations to *People v. Duvall* and *In re Swain* indicated that petitioner's claims were procedurally deficient and could be cured through a renewed state habeas petition.
3. Whether petitioner was entitled to a Rhines stay and abeyance of the federal habeas petition.

HOLDINGS

1. A state prisoner must fairly present each federal claim, including its operative facts and federal legal theory, to the state's highest court before obtaining federal habeas relief. Petitioner failed to exhaust all claims raised in the federal petition.
2. A Rhines stay is unavailable where the petitioner fails to demonstrate good cause for failing to exhaust, potential merit of the unexhausted claims, and absence of intentionally dilatory litigation tactics.

KEY QUOTATIONS

"A petitioner may satisfy the exhaustion requirement in two ways: (1) by providing the highest state court with an opportunity to rule on the merits of the claim ...; or (2) by showing that at the time the petitioner files the habeas petition in federal court no state remedies are still available to the petitioner and the petitioner had not deliberately by-passed the state remedies." (at 2)

"These are defects that can be cured in a renewed state petition[, and] [s]tate judicial remedies are not exhausted in such a case." (at 9)

"A Rhines stay may be employed as to both "mixed" petitions—i.e., those containing exhausted and unexhausted claims—and petitions raising only unexhausted claims." (at 11)

FACTUAL BACKGROUND

Petitioner is serving a 15-years-to-life sentence after pleading no contest to second-degree murder under California Penal Code § 187(a) in Butte County Superior Court. His federal petition alleged ineffective assistance of counsel, due process violations, and an involuntary or otherwise invalid plea, including claims concerning malice, causation, his age, and possible defenses. Petitioner pursued two state appeals and filed a habeas petition in the California Supreme Court, but the state proceedings did not fairly present or properly develop the federal claims raised in the federal petition.

PROCEDURAL HISTORY

Petitioner challenged his 2018 Butte County Superior Court second-degree murder conviction and 15-years-to-life sentence. The magistrate judge previously determined that all claims in the federal petition were unexhausted and allowed petitioner to seek a Rhines stay. Petitioner filed a motion to stay but did not address the

Rhines factors. The magistrate judge recommends denying the stay and dismissing the action without prejudice for failure to exhaust state remedies, subject to objections and review by the assigned district judge.

DISPOSITION

other

CASES CITED

- Rose v. Lundy, 455 U.S. 509, 515-16, 518 (1982)
- Picard v. Connor, 404 U.S. 270, 275 (1971)
- Batchelor v. Cupp, 693 F.2d 859, 862 (9th Cir. 1982)
- Castille v. Peoples, 489 U.S. 346, 351 (1989)
- Duncan v. Henry, 513 U.S. 364, 365-66 (1995)
- Sweet v. Cupp, 640 F.2d 233, 237-38 (9th Cir. 1981)
- Pitchess v. Davis, 421 U.S. 482, 488 (1975)
- People v. Turrin, 176 Cal. App. 4th 1200, 1206-07 (2009)
- People v. Wende, 25 Cal. 3d 436 (1979)
- People v. Figueras, 61 Cal. App. 5th 108 (2021), vacated and remanded, 308 Cal. Rptr. 3d 642 (2023)
- People v. Serrano, 211 Cal. App. 4th 496, 501-04 (2012)
- People v. Duvall, 9 Cal. 4th 464, 474 (1995)
- In re Swain, 34 Cal. 2d 300, 304 (1949)
- Curiel v. Miller, 830 F.3d 864, 869 (9th Cir. 2016)
- McCarthy v. Frauenheim, 2017 WL 5972696, at *3 (N.D. Cal. Dec. 1, 2017)
- Kim v. Villalobos, 799 F.2d 1317, 1319 (9th Cir. 1986)
- Gulbrandson v. Ryan, 738 F.3d 976, 992 (9th Cir. 2013)
- Hemmerle v. Schriro, 495 F.3d 1069, 1075 (9th Cir. 2007)
- Rhines v. Weber, 544 U.S. 269, 277-78 (2005)
- Mena v. Long, 813 F.3d 907, 908 (9th Cir. 2016)
- Kelly v. Small, 315 F.3d 1063 (9th Cir. 2003)
- Martinez v. Ylst, 951 F.2d 1153 (9th Cir. 1991)
- Brady v. United States, 397 U.S. 742, 747 n.4, 748 (1970)
- Boykin v. Alabama, 395 U.S. 238 (1969)
- People v. Franklin, 63 Cal. 4th 261, 276-77 (2016)
- Cornego v. Lizzaraga, 2021 WL 616885, at *20-21 (E.D. Cal. Feb. 17, 2021), findings and recommendations adopted, 2021 WL 4478727 (E.D. Cal. Sept. 30, 2021)
- Smith v. Robbins, 528 U.S. 259, 265 (2000)
- People v. Archer, 230 Cal. App. 4th 693, 702 (2014)
- Reyn's Pasta Bella, LLC v. Visa USA, Inc., 442 F.3d 741, 746 n.6 (9th Cir. 2006)

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