

UNITED STATES DISTRICT COURT FOR THE WESTERN DISTRICT OF
TENNESSEE, EASTERN DIVISION

Shawn F. Shaw v. Brian Eller, Warden

No. 1:25-cv-01252-JDB-jay (W.D. Tenn. June 15, 2026) · No. 1:25-cv-01252-JDB-jay · Decided June 16, 2026

SUMMARY

The United States District Court for the Western District of Tennessee dismissed Shawn F. Shaw’s 28 U.S.C. § 2254 habeas petition without prejudice because he had not exhausted his claims in state court. The court denied a certificate of appealability and denied leave to proceed in forma pauperis on appeal, certifying that an appeal would not be taken in good faith.

CASE DETAILS

COURT	United States District Court for the Western District of Tennessee, Eastern Division
WRITING FOR THE COURT	J. Daniel Breen
JURISDICTION	United States District Court for the Western District of Tennessee, Eastern Division
DECIDED	June 16, 2026
DOCKET	1:25-cv-01252-JDB-jay
DISPOSITION	dismissed
PROCEDURAL POSTURE	Federal habeas corpus petition under 28 U.S.C. § 2254 dismissed without prejudice for failure to exhaust state-court remedies; certificate of appealability denied and leave to proceed in forma pauperis on appeal denied.
STANDARD OF REVIEW	A federal court may not adjudicate a § 2254 petition until available state remedies have been exhausted. Each claim must have been fairly presented to the state courts, and the petitioner bears the burden of proving exhaustion. A COA following a procedural dismissal requires a showing that reasonable jurists could debate both the validity of a constitutional claim and the correctness of the procedural ruling.
PRECEDENTIAL VALUE	nonprecedential
PARTIES	Shawn F. Shaw v. Brian Eller, Warden

TOPICS

federal habeas corpus

post-conviction relief

successive petitions

double jeopardy

appellate procedure

PRACTICE AREAS

federal habeas corpus

post-conviction relief

criminal procedure

appellate procedure

QUESTIONS PRESENTED

1. Whether Shaw's § 2254 claims were exhausted in the Tennessee courts.
2. Whether the federal habeas petition should be dismissed without prejudice for failure to exhaust state-court remedies.
3. Whether Shaw was entitled to a certificate of appealability after the procedural dismissal.
4. Whether Shaw should be permitted to proceed in forma pauperis on appeal.

HOLDINGS

1. Shaw failed to exhaust his state-court remedies because he did not fairly present the claims asserted in his federal petition to the Tennessee Court of Criminal Appeals.
2. The § 2254 petition was dismissed without prejudice to Shaw's right to file a new petition after exhausting his claims in state court.
3. A certificate of appealability was denied because reasonable jurists would not debate the correctness of the dismissal for failure to exhaust.
4. Leave to proceed in forma pauperis on appeal was denied, and the court certified that an appeal would not be taken in good faith.

KEY QUOTATIONS

“For the reasons set forth above, the Petition is DISMISSED WITHOUT PREJUDICE to Shaw’s right to file a new § 2254 petition after he exhausts his claims in state court.” (at 3)

“To be properly exhausted, each claim must have been ‘fairly presented’ to the state courts.” (at 3)

“Because granting a stay effectively excuses a petitioner’s failure to present his claims first to the state courts [before filing his federal habeas petition], stay and abeyance is only appropriate when the district court determines there was good cause for the petitioner’s failure to exhaust his claims first in state court.” (at 3)

FACTUAL BACKGROUND

Shaw was convicted in Tennessee of first-degree premeditated murder, first-degree felony murder, especially aggravated kidnapping, and aggravated assault. On direct appeal, he challenged the kidnapping and aggravated-assault convictions on double-jeopardy grounds, but the Tennessee Court of Criminal Appeals did not address a double-jeopardy challenge to the two first-degree murder convictions or the merger of those convictions. The state appellate court affirmed the judgments while directing the trial court to correct the judgment forms, including by entering an amended form reflecting that count 2 merged into count 1. Shaw filed a federal habeas

petition before appealing the amended judgment or presenting his federal claims through state post-conviction proceedings.

PROCEDURAL HISTORY

Shaw filed a pro se § 2254 petition asserting that the Tennessee courts improperly merged murder convictions and that he was convicted twice under Tennessee Code Annotated § 39-13-202. He admitted that he had not presented the habeas claims in a state post-conviction application and had not raised two of them on direct appeal. After ordering Shaw to show cause why the petition should not be dismissed for failure to exhaust, the district court concluded that the claims had not been fairly presented to the Tennessee Court of Criminal Appeals and dismissed the petition without prejudice.

DISPOSITION

dismissed

CASES CITED

- State v. Shaw, 715 S.W.3d 340, 343 (Tenn. Crim. App. 2024)
- Rose v. Lundy, 455 U.S. 509, 518-19 (1982)
- Adams v. Holland, 330 F.3d 398, 402 (6th Cir. 2003)
- Wagner v. Smith, 581 F.3d 410, 414 (6th Cir. 2009)
- Rust v. Zent, 17 F.3d 155, 160 (6th Cir. 1994)
- Rhines v. Weber, 554 U.S. 269, 277 (2005)
- Slack v. McDaniel, 529 U.S. 473, 484 (2000)
- Kincade v. Sparkman, 117 F.3d 949, 952 (6th Cir. 1997)

OPINION

Shaw
PER CURIAM.
IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TENNESSEE
EASTERN DIVISION
)
SHAWN F. SHAW,)
) Petitioner,)) v.) Case No. 1:25-cv-01252-JDB-jay)
BRIAN ELLER, WARDEN,)
) Respondent.))
ORDER DISMISSING § 2254 PETITION WITHOUT PREJUDICE FOR FAILURE TO
EXHAUST STATE COURT REMEDIES,
DENYING A COA,

AND

DENYING LEAVE TO PROCEED IN FORMA PAUPERIS ON APPEAL

On November 5, 2025, the Petitioner, Shawn F. Shaw, Tennessee Department of Correction prisoner number 476037, an inmate at the Northeast Correctional Complex in Mountain City, Tennessee, filed a pro se petition under 28 U.S.C. § 2254 for a writ of habeas corpus (the “Petition”). (Docket Entry (“D.E.”) 1.) The Petition raises three grounds for relief: (1) “[m]erge has no Tennessee Code Annotated [and] does not exist in law” (id. at PageID 4) (“Ground 1”) and (2) Petitioner was “[c]onvicted twice under the same [statute, Tennessee Code Annotated] § 39-13-202[,] on the same victim” (id. at PageID 6) (“Ground 2”). The third ground for relief (“Ground 3”) is a duplicate of the first. (See id. at PageID 7.) Petitioner admits that he has not raised any of his three grounds for habeas relief in a state post-conviction application. Additionally, he admits that he has not raised Grounds 1 and 3 in a direct appeal to the Tennessee Court of Criminal Appeals (“TCCA”). On preliminary review, the Court ordered Shaw to show cause “why the Petition should not be dismissed without prejudice for failure to exhaust state-court remedies.” (D.E. 10 at PageID 28.) He responded to the show cause order claiming that the “state courts [were] informed of this merge” and that “all . . . courts supported this merge . . . knowing it has no [Tennessee] statute to support such action/judgment.” (D.E. 11 at PageID 31.) The Court has reviewed the TCCA’s decision in the inmate’s direct appeal and, contrary to Shaw’s response to the show cause order, finds the claims raised in the Petition have not been exhausted. Shaw was convicted by a jury of first-degree premeditated murder, first-degree felony murder, especially aggravated kidnapping, and aggravated assault. *State v. Shaw*, 715 S.W.3d 340, 343 (Tenn. Crim. App. 2024). Before the TCCA, he argued that his convictions for especially aggravated kidnapping and aggravated assault violated the prohibition against double jeopardy. Id. at 344-45. He also attempted to raise an evidentiary issue about a witness’s testimony at trial, “but due to the largely incoherent nature of [Petitioner’s] brief, [the TCCA was] unable to determine precisely what issue [he was] attempting to raise.” Id. at 348. Nonetheless, because Petitioner had failed to raise any issue about the witness’s testimony in a motion for a new trial, the TCCA deemed the issue waived. Id. The TCCA affirmed the state trial court’s judgments but remanded the case in order for the trial court to correct various errors in the judgment forms. Id. As relevant to the Petition, the TCCA ordered the state trial court to enter “an amended judgment form for count 2 . . . to reflect that it merges into count 1 for a single conviction of first degree murder.” Id. 2 Although Grounds 1 and 3 are difficult to decipher, they appear to relate to the TCCA’s order on remand directing the state trial court to enter an amended judgment form that merged counts 1 and 2 into a single conviction of first-degree murder. Id. Petitioner has not appealed the state court’s amended judgment. Shaw raises a double jeopardy claim in Ground 2, alleging that he was “convicted twice under . . . § 39-13-202 on the same victim.” (D.E. 1 at PageID 6.) The statute to which he refers defines first-degree murder in Tennessee. The only double jeopardy challenge considered by the TCCA related to Petitioner’s convictions for especially aggravated kidnapping and aggravated

assault. Shaw, 715 S.W.3d at 343. The court did not address any double jeopardy challenge to Petitioner's convictions under §§ 39-13-202(a)(1) and (a)(2) for first-degree premeditated murder and first-degree felony murder. See *id.* A federal court cannot decide a § 2254 petition until the petitioner exhausts the remedies available in state court. See 28 U.S.C. § 2254(b)(1)(A); see also *Rose v. Lundy*, 455 U.S. 509, 518-19 (1982). In Tennessee, a petitioner exhausts state remedies on a claim when the claim is presented to at least the TCCA. *Adams v. Holland*, 330 F.3d 398, 402 (6th Cir. 2003) (citing *Tenn. Sup. Ct. R. 39*). "To be properly exhausted, each claim must have been 'fairly presented' to the state courts." *Wagner v. Smith*, 581 F.3d 410, 414 (6th Cir. 2009). The petitioner bears the burden of proving exhaustion. *Rust v. Zent*, 17 F.3d 155, 160 (6th Cir. 1994). A petitioner has not satisfied his burden of showing exhaustion where he has failed to fairly present the claims in his petition to the TCCA. See *id.* The United States Supreme Court has made clear that a stay and abeyance of a federal habeas case while a petitioner exhausts his state remedies are appropriate only in limited 3 circumstances. *Rhines v. Weber*, 554 U.S.269, 277 (2005). "Because granting a stay effectively excuses a petitioner's failure to present his claims first to the state courts [before filing his federal habeas petition], stay and abeyance is only appropriate when the district court determines there was good cause for the petitioner's failure to exhaust his claims first in state court." *Id.* Shaw has not demonstrated good cause for a stay of these federal proceedings. For the reasons set forth above, the Petition is DISMISSED WITHOUT PREJUDICE to Shaw's right to file a new § 2254 petition after he exhausts his claims in state court.

APPELLATE ISSUES

No § 2254 petitioner may appeal without a certificate of appealability ("COA"). 28 U.S.C. § 2253(c)(1); Fed. R. App. P. 22(b)(1). To obtain a COA, a petitioner must make "a substantial showing of the denial of a constitutional right." See 28 U.S.C. § 2253(c)(2). Where habeas relief is denied on procedural grounds without reaching the merits of the underlying constitutional claim(s), "a COA should issue [only] when the prisoner shows . . . that jurists of reason would find it debatable whether the petition states a valid claim of the denial of a constitutional right and that jurists of reason would find it debatable whether the district court was correct in its procedural ruling." *Slack v. McDaniel*, 529 U.S. 473, 484 (2000). In this case, the Petition was dismissed for failure to exhaust state court remedies. Reasonable jurists would not find it debatable whether the Court was correct in its procedural ruling dismissing the Petition for failure to exhaust. The Court DENIES a COA. To appeal in forma pauperis ("IFP") in a habeas case under § 2254, the petitioner must obtain pauper status under Federal Rule of Appellate Procedure 24(a). See *Kincade v. Sparkman*, 117 F.3d 949, 952 (6th Cir. 1997). A party seeking pauper status on appeal must first file a motion 4 in the district court, along with a supporting affidavit. Fed. R. App. P. 24(a)(1). If the district court certifies that an appeal would not be taken in good faith, or otherwise denies leave to appeal IFP, the petitioner must file his motion to proceed IFP in the appellate court. See Fed. R. App. P. 24(a)(4)-(5). For the same reasons the Court denies a COA, the Court CERTIFIES that any appeal in this matter would not be taken in good faith. Leave to appeal IFP is DENIED.1

IT IS SO ORDERED this 15th day of June 2026.

s/ J. DANIEL BREEN

UNITED STATES DISTRICT JUDGE

1If Petitioner files a notice of appeal, he must pay the full \$605 appellate filing fee or file a motion to proceed IFP and supporting affidavit in the Sixth Circuit Court of Appeals within thirty days of the date of entry of this order. See Fed. R. App. P. 24(a)(5). 5