

UNITED STATES DISTRICT COURT FOR THE DISTRICT OF NEW MEXICO

Joseph B. Waters v. FNU Stevenson Warden and Attorney General of
the State of New Mexico

Waters v. Stevenson, No. 2:22-cv-926 MV/KRS (D.N.M. Mar. 2, 2026) (proposed findings and recommended disposition) · No. No. 2:22-cv-926 MV/KRS · Decided March 2, 2026

SUMMARY

This document is a United States District Court for the District of New Mexico Proposed Findings and Recommended Disposition in Joseph B. Waters’s 28 U.S.C. § 2254 habeas proceeding. It addresses exhausted claims of ineffective assistance of counsel and double jeopardy after Petitioner voluntarily dismissed several unexhausted claims. The magistrate judge recommends denying the remaining claims with prejudice under the standards governing federal habeas review.

CASE DETAILS

COURT	United States District Court for the District of New Mexico
WRITING FOR THE COURT	Kevin R. Sweazea, United States Magistrate Judge
JURISDICTION	United States District Court for the District of New Mexico
DECIDED	March 2, 2026
DOCKET	No. 2:22-cv-926 MV/KRS
DISPOSITION	other
PROCEDURAL POSTURE	Petitioner sought federal habeas relief under 28 U.S.C. § 2254 from New Mexico convictions. After the court dismissed unexhausted claims without prejudice, the magistrate judge issued proposed findings and a recommended disposition addressing the remaining ineffective-assistance and double-jeopardy claims.
STANDARD OF REVIEW	Under AEDPA, relief is unavailable on a claim adjudicated on the merits in state court unless the state decision was contrary to, or involved an unreasonable application of, clearly established federal law as determined by the Supreme Court, or was based on an unreasonable determination of the facts. State factual findings are presumed correct and may be rebutted only by clear and convincing evidence. Ineffective-assistance claims are reviewed under the doubly deferential combination of Strickland and § 2254(d).
PRECEDENTIAL VALUE	nonprecedential

PARTIES

Joseph B. Waters v. FNU Stevenson Warden, Attorney General of the State of New Mexico

TOPICS

federal habeas corpus

ineffective assistance

right to counsel

double jeopardy

criminal procedure

PRACTICE AREAS

federal habeas corpus

post-conviction relief

criminal procedure

constitutional law

QUESTIONS PRESENTED

1. Whether the state court unreasonably applied clearly established federal law or unreasonably determined the facts in rejecting Waters's ineffective-assistance claim based on counsel's failure to seek suppression of his statements.
2. Whether the state court unreasonably rejected Waters's claim that counsel was ineffective in advising him to reject the State's plea offer.
3. Whether counsel was ineffective for failing to investigate defenses and witnesses or call witnesses and rebuttal expert witnesses.
4. Whether multiple convictions for kidnapping and first-degree criminal sexual penetration violated the Double Jeopardy Clause.
5. Whether Waters was entitled to a certificate of appealability.

HOLDINGS

1. The recommended disposition concludes that Waters failed to show that the state court's determination that his statements were made knowingly, intelligently, and voluntarily, and that he was not in custody during the relevant questioning, was contrary to or an unreasonable application of clearly established federal law or based on an unreasonable determination of fact.
2. The recommended disposition concludes that Waters failed to rebut by clear and convincing evidence the state court's factual findings concerning counsel's plea advice and failed to establish deficient performance or prejudice under the governing plea-bargaining standard.
3. The recommended disposition concludes that Waters's conclusory allegations concerning counsel's failure to investigate defenses and witnesses or call witnesses and rebuttal experts were insufficient to establish either deficient performance or prejudice.
4. The recommended disposition concludes that Waters failed to demonstrate a Double Jeopardy violation because the conduct underlying kidnapping and criminal sexual penetration was not unitary, and the convictions rested on distinct factual bases.

KEY QUOTATIONS

“A federal court cannot grant habeas relief pursuant to § 2254(d) with respect to any claim adjudicated on the merits by a state court unless the petitioner’s state-court proceeding:” (at 18)

“Only when a petitioner demonstrates there is no possibility of fair minded disagreement may a federal court find that a state court applied federal law unreasonably or made an unreasonable finding of fact.” (at 21)

“Given the totality of the circumstances, I conclude the evidence supports the state court’s determination that Petitioner was not in custody at the time of his statements to law enforcement and his statements were made knowingly, intelligently, and voluntarily.” (at 24)

“Only if the first part of the test is answered in the affirmative, and the second in the negative, will the double jeopardy clause prohibit multiple punishment in the same trial.” (at 30)

“I recommend that the Court deny Petitioner’s Petition Under 28 U.S.C. § 2254 for a Writ of Habeas Corpus (Doc. 1), deny a certificate of appealability, and dismiss this case with prejudice as to all exhausted claims.” (at 32)

FACTUAL BACKGROUND

Waters was convicted after a jury found that he kidnapped and sexually assaulted A.A., a fifteen-year-old girl, after driving her from a gas station toward his trailer. During an initial field interview and a later sheriff's-office interview, Waters made statements about his sexual contact with A.A.; he received Miranda warnings during the encounters and signed a waiver at the sheriff's office. The state habeas court found that Waters was not in custody during the field interview, was not substantially impaired, knowingly and voluntarily waived his rights, and that trial counsel's strategy and plea advice were reasonable. The federal petition challenged counsel's handling of the statements, plea offer, investigation, witnesses, and expert testimony, and also asserted that the kidnapping and first-degree criminal-sexual-penetration convictions violated double jeopardy.

PROCEDURAL HISTORY

A New Mexico jury convicted Waters of first-degree kidnapping, first-degree criminal sexual penetration, third-degree aggravated battery, and interference with communications. The New Mexico Court of Appeals affirmed, and the New Mexico Supreme Court denied certiorari. Waters subsequently pursued state habeas relief; the state court denied the remaining claims after an evidentiary hearing, and the New Mexico Supreme Court denied further review. Waters filed this § 2254 petition, but voluntarily dismissed the unexhausted claims. The magistrate judge recommended denying the exhausted claims with prejudice, denying a certificate of appealability, and dismissing the case with prejudice as to those claims.

DISPOSITION

other

CASES CITED

- Byrd v. Workman, 645 F.3d 1159 (10th Cir. 2011)
- Williams v. Taylor, 529 U.S. 362 (2000)

- *Turrentine v. Mullin*, 390 F.3d 1181 (10th Cir. 2004)
- *Price v. Vincent*, 538 U.S. 634 (2003)
- *Early v. Packer*, 537 U.S. 3 (2002)
- *Lockyer v. Andrade*, 538 U.S. 63 (2003)
- *Miller-El v. Dretke*, 545 U.S. 231 (2005)
- *Cullen v. Pinholster*, 563 U.S. 179 (2011)
- *Littlejohn v. Trammell*, 704 F.3d 817 (10th Cir. 2013)
- *Wilson v. Workman*, 577 F.3d 1284 (10th Cir. 2009)
- *Lott v. Trammell*, 705 F.3d 1167 (10th Cir. 2013)
- *Harrington v. Richter*, 562 U.S. 86 (2011)
- *Woodford v. Visciotti*, 537 U.S. 19 (2002)
- *Black v. Workman*, 682 F.3d 880 (10th Cir. 2012)
- *Hall v. Bellmon*, 935 F.2d 1106 (10th Cir. 1991)
- *Ruark v. Gunter*, 958 F.2d 318 (10th Cir. 1992)
- *Strickland v. Washington*, 466 U.S. 668 (1984)
- *Simpson v. Carpenter*, 912 F.3d 542 (10th Cir. 2019)
- *Ryder ex rel. Ryder v. Warrior*, 810 F.3d 724 (10th Cir. 2016)
- *Miranda v. Arizona*, 384 U.S. 436 (1966)
- *Colorado v. Spring*, 479 U.S. 412 (1986)
- *Colorado v. Connelly*, 479 U.S. 157 (1986)
- *Montejo v. Louisiana*, 556 U.S. 778 (2009)
- *Berkemer v. McCarty*, 468 U.S. 420 (1984)
- *United States v. Jones*, 523 F.3d 1235 (10th Cir. 2008)
- *United States v. Burson*, 531 F.3d 1254 (10th Cir. 2008)
- *Hill v. Lockhart*, 474 U.S. 52 (1985)
- *Lafler v. Cooper*, 566 U.S. 156 (2012)
- *Quintana v. Mulheron*, 788 F. App'x 604 (10th Cir. 2019)
- *Bullock v. Carver*, 297 F.3d 1036 (10th Cir. 2002)
- *Boyle v. McKune*, 544 F.3d 1132 (10th Cir. 2008)
- *North Carolina v. Pearce*, 395 U.S. 711 (1969)
- *Alabama v. Smith*, 490 U.S. 794 (1989)
- *Blockburger v. United States*, 284 U.S. 299 (1932)
- *Lucero v. Kerby*, 133 F.3d 1299 (10th Cir. 1998)
- *Swafford v. New Mexico*, 810 P.2d 1223 (N.M. 1991)
- *New Mexico v. Silvas*, 343 P.3d 616 (N.M. 2015)
- *State v. McGuire*, 795 P.2d 996 (N.M. 1990)
- *State v. Bahney*, 274 P.3d 134 (N.M. Ct. App. 2012)

- State v. Crain, 946 P.2d 1095 (N.M. Ct. App. 1997)

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