

UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF
CALIFORNIA

Brittany H. Constable v. Jeff McCombre

Constable v. McCombre · No. 2:25-cv-2848-JDP (P) · Decided December 1, 2025

SUMMARY

The United States District Court for the Eastern District of California dismissed Brittany H. Constable’s 28 U.S.C. § 2254 habeas petition with leave to amend. The court concluded that the allegations concerning stolen information and name misuse were not cognizable in habeas and that the alleged overdetention and Miranda claims were insufficiently clear, including as to exhaustion.

CASE DETAILS

COURT	United States District Court for the Eastern District of California
WRITING FOR THE COURT	Jeremy D. Peterson
JURISDICTION	United States District Court for the Eastern District of California
DECIDED	December 1, 2025
DOCKET	2:25-cv-2848-JDP (P)
DISPOSITION	dismissed
PROCEDURAL POSTURE	Petitioner filed a 28 U.S.C. § 2254 habeas petition. The district court conducted preliminary review under Rule 4 of the Rules Governing Section 2254 Cases and dismissed the petition with leave to amend.
STANDARD OF REVIEW	Under Rule 4 of the Rules Governing Section 2254 Cases, the court must examine the habeas petition and order a response unless it plainly appears that the petitioner is not entitled to relief.
PRECEDENTIAL VALUE	nonprecedential
PARTIES	Brittany H. Constable v. Jeff McCombre

TOPICS

- federal habeas corpus
- post-conviction relief
- pleadings
- criminal procedure

PRACTICE AREAS

- Federal habeas corpus
- Post-conviction relief
- Criminal procedure

QUESTIONS PRESENTED

1. Whether the petition stated a cognizable federal habeas claim.
2. Whether the allegations concerning overdetention and an alleged Miranda violation were sufficiently clear and adequately pleaded for preliminary review.
3. Whether the petition demonstrated or adequately addressed exhaustion of state-court remedies.

HOLDINGS

1. An allegation that prison staff failed to maintain effective computer security, resulting in possible theft of a prisoner's information or name, does not challenge the validity of a conviction and is not cognizable in a federal habeas action.
2. The petition could not proceed on preliminary review because the allegations concerning overdetention and an alleged Miranda violation were unclear and did not adequately indicate whether available state-court remedies had been exhausted; petitioner was granted leave to amend.

KEY QUOTATIONS

“Under Rule 4, the judge assigned to the habeas proceeding must examine the habeas petition and order a response to the petition unless it “plainly appears” that the petitioner is not entitled to relief.” (at 1)

FACTUAL BACKGROUND

Petitioner alleged that prison staff's failure to maintain effective computer security may have resulted in the theft of her information and name. She also alleged that she had been overdetained and that her Miranda rights were not properly read, but the petition did not clearly explain the factual or legal basis of those claims or whether they had been exhausted in state court.

PROCEDURAL HISTORY

Petitioner, a state prisoner, initiated this federal habeas action. On preliminary screening, the court determined that the petition did not state a cognizable federal habeas claim and that the allegations concerning overdetention and Miranda violations were insufficiently clear, including as to exhaustion. The court dismissed the petition without prejudice and allowed thirty days to file an amended petition or a notice of voluntary dismissal.

DISPOSITION

dismissed

CASES CITED

- Valdez v. Montgomery, 918 F.3d 687, 693 (9th Cir. 2019)
- Boyd v. Thompson, 147 F.3d 1124, 1127 (9th Cir. 1998)

OPINION

McCombre

PER CURIAM.

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8 UNITED STATES DISTRICT COURT

9 FOR THE EASTERN DISTRICT OF CALIFORNIA

10 11 BRITTANY H. CONSTABLE,¹ Case No. 2:25-cv-2848-JDP (P) 12 Petitioner, 13 v.
ORDER

14 JEFF MCCOMBRE,

15 Respondent. 16

17 18 Petitioner, a state prisoner, brings this action under section 2254. ECF No. 1. Her petition 19
does not state a cognizable federal habeas claim, and I will dismiss it with leave to amend so that
20 she may remedy this deficiency if she can. 21 The petition is before me for preliminary review
under Rule 4 of the Rules Governing

22 Section 2254 Cases. Under Rule 4, the judge assigned to the habeas proceeding must examine
23 the habeas petition and order a response to the petition unless it “plainly appears” that the 24
petitioner is not entitled to relief. See *Valdez v. Montgomery*, 918 F.3d 687, 693 (9th Cir. 2019); 25
Boyd v. Thompson, 147 F.3d 1124, 1127 (9th Cir. 1998). 26 1 The docket lists petitioner’s name as
“Edward H. Constable, also known as Brittany H. 27 Constable.” Petitioner states that she is
transgender, ECF No. 1 at 3, and, accordingly, I will refer to her feminine name in the caption and
use feminine pronouns in the order. If this is incorrect, 28 petitioner may state as much in any
amended petition.

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1 Petitioner alleges that her information and name may have been stolen because of prison 2 | staff
failing to practice effective computer security. ECF No. | at 3,9. This allegation does not 3 | attack
the validity of any conviction and, thus, is unsuited to proceed in a habeas action. 4 | Petitioner
does allege that she has been “overdetained,” which might hint at a cognizable claim, 5 | but the
specifics are unclear. Petitioner indicates that her Miranda rights were not read 6 | appropriately,
but I cannot discern the basis for this claim. Neither has petitioner stated whether 7 | the claim has
been properly exhausted in state court before being presented here. The “check the 8 | box” portion
of the form indicates that no review was sought from the California Supreme Court, 9 | but the
Miranda claim is not mentioned on the form, only in the attachments to the petition. 10 | Thus, I
cannot tell whether petitioner intended to state that this claim was also unexhausted. 11 I will
dismiss the petition with leave to amend. If petitioner chooses to file an amended 12 || petition, she
must do so on the form provided and indicate whether her claims are exhausted. The 13 | amended
petition should be titled “First Amended Petition.” 14 Accordingly, it is ORDERED that: 15 1. The
petition, ECF No. 1, is DISMISSED with leave to amend. 16 2. Within thirty days from service of
this order, petitioner shall file either (1) an 17 | amended petition or (2) notice of voluntary
dismissal of this action without prejudice. 18 3. Failure to timely file either an amended petition or

notice of voluntary dismissal 19 || may result in the imposition of sanctions, including a recommendation that this action be 20 || dismissed with prejudice pursuant to Federal Rule of Civil Procedure 41(b). 21 4. The Clerk of Court shall send petitioner a habeas petition form with this order. If 22 | he files an amended complaint, he must use this form. 23 IT IS SO ORDERED.

Dated: _ December 1, 2025 q————

26 JEREMY D., PETERSON

UNITED STATES MAGISTRATE JUDGE

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