

**UNITED STATES DISTRICT COURT FOR THE CENTRAL DISTRICT OF
CALIFORNIA**

Floyd Scott v. L. Lundy

Scott · No. CV 25-10024 JVS (RAO) · Decided January 23, 2026

OPINION

Floyd Scott v. L. Lundy

PER CURIAM.

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8 UNITED STATES DISTRICT COURT

9 CENTRAL DISTRICT OF CALIFORNIA

10 11 FLOYD SCOTT, Case No. CV 25-10024 JVS (RAO) 12 Petitioner,

ORDER SUMMARILY

13 v. DISMISSING SUCCESSIVE

PETITION FOR WRIT OF

14 L. LUNDY, HABEAS CORPUS FOR LACK OF

JURISDICTION AND DENYING

15 Respondent. CERTIFICATE OF

APPEALABILITY

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I. BACKGROUND

18 On September 29, 2025, Petitioner Floyd Scott (“Petitioner”) constructively 19 filed a Petition
for Writ of Habeas Corpus by a Person in State Custody pursuant to 20 28 U.S.C. § 2254. Dkt.
No. 1. The Petition challenges Petitioner’s 2008 conviction 21 in Los Angeles County Superior
Court. 22 The records of this Court establish that Petitioner previously filed a habeas 23 action in
2011 concerning his 2008 conviction and sentence. See Scott v. Harrington, 24 No. CV 11-5738-
GAF (AJW) (C.D. Cal. July 4, 2011).¹ In 2014, the Court denied 25 26 1 Petitioner was originally
convicted in 1999 of the same charges underlying the 2008 conviction. He filed a federal habeas
petition challenging that 1999 conviction, and 27 the petition was granted in 2006. See Scott v.
Lamarque, No. CV 03-2003 GAF 28 (AJW), Dkt. Nos. 1, 42. Petitioner was then retried and
convicted again. See Order 1 the petition on the merits and dismissed the action with prejudice.
See June 10, 2014 2 Report and Recommendation, Dkt. No. 62, adopted by July 18, 2014 Order,
Scott v. 3 Harrington, No. CV 11-5738 GAF (AJW), Dkt. No. 67. Petitioner appealed the 4 denial
to the Ninth Circuit, which denied his request for a certificate of appealability. 5 Id., Dkt. Nos. 71,
79. 6 Petitioner has filed several habeas petitions in this Court challenging the same 7 2008
conviction. See Scott v. Superior Court, No. CV 23-4449 JVS (RAO) (C.D. 8 Cal. June 5, 2023);

Scott v. Johnson, No. CV 21-8309 JVS (KK) (C.D. Cal. Oct. 18, 9 2021); Scott v. Asuncion, No. CV 17-8239 JVS (AJW) (C.D. Cal. Nov. 13, 2017). 10 The Court dismissed these petitions as second or successive petitions and denied 11 certificates of appealability. See Order Summarily Dismissing Successive Petition 12 and Denying Certificate of Appealability, No. CV 23-4449 JVS (RAO), Dkt. No. 5; 13 Order Summarily Dismissing Action and Order Denying Certificate of Appealability, 14 No. CV 21-8309 JVS (KK), Dkt. Nos. 7, 9; Memorandum and Order Dismissing 15 Petition, No. CV 17-8239 JVS (AJW), Dkt. No. 3. Petitioner appealed two of these 16 dismissals to the Ninth Circuit; both appeals were denied. No. CV 23-4449 JVS 17 (RAO), Dkt. No. 19; No. CV 21-8309 JVS (KK), Dkt. No. 12. 18 Neither the pending Petition itself nor the records of the Ninth Circuit establish 19 that the Ninth Circuit has authorized Petitioner to bring a successive petition in this 20 Court.

21 II. DISCUSSION

22 The United States Supreme Court has explained: 23 The Antiterrorism and Effective Death Penalty Act of 1996 (AEDPA) established a stringent set of procedures that a 24 prisoner “in custody pursuant to the judgment of a State 25 court,” 28 U.S.C. § 2254(a), must follow if he wishes to file a “second or successive” habeas corpus application 26 27 Summarily Dismissing Action, Scott v. Johnson, No. CV 21-8309 JVS (KK), Dkt.

28 No. 7.

1 challenging that custody, § 2244(b)(1). In pertinent part, before filing the application in the district court, a prisoner 2 “shall move in the appropriate court of appeals for an order 3 authorizing the district court to consider the application.” § 2244(b)(3)(A). A three-judge panel of the court of 4 appeals may authorize the filing of the second or successive 5 application only if it presents a claim not previously raised that satisfies one of the two grounds articulated in 6 § 2244(b)(2). § 2244(b)(3)(C); Gonzalez v. Crosby, 545 7 U.S. 524, 529-530, 125 S. Ct. 2641, 162 L. Ed. 2d 480

(2005); see also Felker v. Turpin, 518 U.S. 651, 656-657,

8 664, 116 S. Ct. 2333, 135 L. Ed. 2d 827 (1996). 9 Burton v. Stewart, 549 U.S. 147, 152-53, 127 S. Ct. 793, 166 L. Ed. 2d 628 (2007). 10 The Court finds that Petitioner’s present Petition is clearly a “second or 11 successive” habeas petition. Moreover, the Petition and records of the Ninth Circuit 12 establish that Petitioner has not been granted authorization by the Ninth Circuit to 13 file a successive petition to raise his claims. 14 For these reasons, the Court finds that it lacks jurisdiction to consider the 15 Petition. Therefore, the reference to the Magistrate Judge is vacated and the Petition 16 is dismissed for lack of jurisdiction. See Burton, 549 U.S. at 152-53. The Clerk is 17 directed to enter judgment dismissing the Petition. 18

III. CERTIFICATE OF APPEALABILITY

19 Under the AEDPA, a state prisoner seeking to appeal a district court’s final 20 order in a habeas corpus proceeding must obtain a Certificate of Appealability 21 (“COA”) from the district judge or a circuit judge. 28 U.S.C. § 2253(c)(1)(A). A 22 COA may issue “only if the applicant has

made a substantial showing of the denial of a constitutional right.” 28 U.S.C. § 2253(c)(2). “A petitioner satisfies this standard by demonstrating that jurists of reason could disagree with the district court’s resolution of his constitutional claims or that jurists could conclude the issues presented are adequate to deserve encouragement to proceed further.” *Miller-El v. Cockrell*, 537 U.S. 322, 327, 123 S. Ct. 1029, 154 L. Ed. 2d 931 (2003). 1 When the Court dismisses a petition on procedural grounds, it must issue a COA if the petitioner shows: (1) “that jurists of reason would find it debatable whether the petition states a valid claim of the denial of a constitutional right”; and (2) “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, 478, 120 S. Ct. 1595, 146 L. Ed. 2d 542 (2000). 7 Here, the Court is summarily dismissing the instant Petition without prejudice 8 because it is a successive petition without proper authorization from the Ninth Circuit. The Court finds that Petitioner cannot make the requisite showing that jurists of reason would find it debatable whether the district court was correct in its procedural ruling.

12 IV. ORDER

13 Based on the foregoing, IT IS ORDERED THAT: 14 1. The Petition is DISMISSED without prejudice; and 15 2. A Certificate of Appealability is DENIED. 16 17 19 | DATED: January 23, 2026 mes "US le Le i 4 /

AMES V. SELNA

21 UNITED STATES DISTRICT JUDGE

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