

UNITED STATES DISTRICT COURT FOR THE DISTRICT OF KANSAS

Marvin L. Gray, Jr. v. Dan Schnurr

Gray v. Schnurr · No. 25-3197-JWL · Decided January 21, 2026

SUMMARY

The United States District Court for the District of Kansas dismisses Marvin L. Gray, Jr.'s petition for a writ of habeas corpus under 28 U.S.C. § 2254 with prejudice. The court concludes that the claims were procedurally defaulted, that the petitioner failed to timely move for a stay to pursue additional state-court remedies, and that no certificate of appealability should issue.

CASE DETAILS

COURT	United States District Court for the District of Kansas
WRITING FOR THE COURT	John W. Lungstrum
JURISDICTION	United States District Court for the District of Kansas
DECIDED	January 21, 2026
DOCKET	25-3197-JWL
DISPOSITION	dismissed
PROCEDURAL POSTURE	Petitioner's second amended 28 U.S.C. § 2254 habeas petition was dismissed with prejudice after the court determined that the asserted grounds were unexhausted and anticipatorily procedurally defaulted, and petitioner failed to file a timely motion to stay the federal proceedings while pursuing state-court remedies.
STANDARD OF REVIEW	For a habeas petition denied on procedural grounds without reaching the underlying constitutional claims, a certificate of appealability requires a showing that reasonable jurists could debate both the validity of the constitutional claim and the correctness of the procedural ruling.
PRECEDENTIAL VALUE	unpublished district court memorandum and order
PARTIES	Marvin L. Gray, Jr. v. Dan Schnurr

TOPICS

- federal habeas corpus
- default
- actual innocence
- state post-conviction relief
- appellate procedure

PRACTICE AREAS

federal habeas corpus

state post-conviction relief

appellate procedure

constitutional law

QUESTIONS PRESENTED

1. Whether the federal habeas petition should be dismissed because the asserted claims were unexhausted and anticipatorily procedurally defaulted.
2. Whether petitioner established cause and prejudice or actual innocence sufficient to overcome the procedural default.
3. Whether a certificate of appealability should issue from the adverse procedural dismissal.

HOLDINGS

1. The petition had to be dismissed with prejudice because petitioner did not establish that the claims were exhausted, did not overcome the anticipatory procedural default, and did not timely move to stay the case while pursuing available state-court remedies.
2. Petitioner did not show sufficient cause for the default and did not qualify for the actual-innocence gateway.
3. No certificate of appealability should issue because reasonable jurists would not debate the court's procedural ruling.

KEY QUOTATIONS

“failed to convince the Court that he should be allowed through the actual innocence gateway to pursue his defaulted claims” (Doc. 12 at 4, 8)

“IT IS THEREFORE ORDERED that this matter is dismissed with prejudice. No certificate of appealability will issue.” (Order)

FACTUAL BACKGROUND

Marvin L. Gray, Jr., a state prisoner proceeding pro se, filed a second amended petition for federal habeas relief under 28 U.S.C. § 2254. The court determined that the petition's four grounds did not appear to have been properly exhausted and were subject to anticipatory procedural default. Although the court identified a possible state-court avenue for pursuing ineffective-assistance claims and gave Gray time to seek a stay, Gray did not file a timely motion to stay.

PROCEDURAL HISTORY

The court previously issued an order to show cause explaining that none of the four grounds in the second amended petition appeared properly exhausted and that the claims appeared barred by anticipatory procedural default. Petitioner responded by asserting cause, prejudice, and actual innocence, but did not establish exhaustion or avoid the default. The court then allowed time for petitioner to seek a stay while returning to state court to pursue a second K.S.A. 60-1507 motion; when no timely motion to stay was filed, the court dismissed the matter with prejudice and denied a certificate of appealability.

DISPOSITION

dismissed

CASES CITED

- Slack v. McDaniel, 529 U.S. 473, 484-85 (2000)

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