

UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF
CALIFORNIA

William Henry Thomas v. Warden, Folsom State Prison

Thomas v. Warden · No. 2:23-cv-02741-DAD-EFB (HC) · Decided August 18, 2025

SUMMARY

The United States District Court for the Eastern District of California adopted the magistrate judge’s findings and recommendations in a state prisoner’s habeas corpus proceeding under 28 U.S.C. § 2254. The court dismissed claims two through six without prejudice, stayed consideration of claim one pending exhaustion in state court, and denied or mooted the petitioner’s remaining motions.

CASE DETAILS

COURT	United States District Court for the Eastern District of California
WRITING FOR THE COURT	Dale A. Drozd
JURISDICTION	United States District Court for the Eastern District of California
DECIDED	August 18, 2025
DOCKET	2:23-cv-02741-DAD-EFB (HC)
DISPOSITION	other
PROCEDURAL POSTURE	Petitioner sought federal habeas relief under 28 U.S.C. § 2254. The district court reviewed and adopted a magistrate judge's findings and recommendations after no objections were filed, partially granted respondent's motion to dismiss, stayed one claim under Kelly v. Small, and dismissed other claims without prejudice.
STANDARD OF REVIEW	De novo review of the magistrate judge's findings and recommendations under 28 U.S.C. § 636(b)(1)(C).
PRECEDENTIAL VALUE	Unpublished district court order; precedential status is unknown.
PARTIES	William Henry Thomas v. Warden, Folsom State Prison

TOPICS

- federal habeas corpus
- post-conviction relief
- motions to dismiss
- pleadings
- civil procedure

PRACTICE AREAS

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

QUESTIONS PRESENTED

1. Whether respondent's motion to dismiss should be granted in part because claims two through six were subject to dismissal without prejudice.
2. Whether consideration of claim one should be stayed under the procedure described in *Kelly v. Small* pending exhaustion of claims two through six in state court.
3. Whether petitioner was entitled to appointment of counsel.
4. Whether petitioner's requests for a response from the attorney general and a copy of the docket should be denied as moot.

HOLDINGS

1. The district court adopted the findings and recommendations in full after conducting de novo review and finding them supported by the record and proper analysis.
2. Respondent's motion to dismiss was granted in part, and petitioner's claims two through six were dismissed without prejudice.
3. The court granted petitioner's motions for a stay under *Kelly v. Small* and stayed consideration of claim one pending exhaustion of claims two through six in the California courts.
4. Petitioner's motion for appointment of counsel was denied without prejudice.
5. Petitioner's request that the attorney general respond and request for a copy of the docket were denied as moot.

KEY QUOTATIONS

"Having carefully reviewed the entire file, the court concludes that the findings and recommendations are supported by the record and by proper analysis." (at 1)

"Petitioner shall pursue exhaustion of claims 2-6 by submitting a petition in the California Supreme Court within 30 days of the date of this order;" (at 1)

"Petitioner shall file a motion to lift the stay and a request to file an amended petition including his newly exhausted claims within 30 days of exhaustion;" (at 1)

FACTUAL BACKGROUND

Petitioner William Henry Thomas is a state prisoner proceeding pro se and in forma pauperis. He filed a federal habeas petition under 28 U.S.C. § 2254 containing six claims, with claims two through six apparently requiring exhaustion in the California courts. The court stayed consideration of claim one while requiring petitioner to pursue exhaustion of claims two through six in the California Supreme Court.

PROCEDURAL HISTORY

Thomas filed an application for a writ of habeas corpus under 28 U.S.C. § 2254 and an amended petition presenting six claims. The magistrate judge recommended dismissing claims two through six without prejudice, staying claim one pending exhaustion, denying appointment of counsel, and denying or terminating other

motions as moot. After the parties failed to object, the district court conducted de novo review under 28 U.S.C. § 636(b)(1)(C), adopted the recommendations, and entered the specified stay, dismissal, and scheduling orders.

DISPOSITION

other

CASES CITED

- Kelly v. Small, 315 F.3d 1063, 1070-71 (9th Cir. 2002)

OPINION

(HC) Thomas v. Warden of Folsom State Prison

PER CURIAM.

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8 UNITED STATES DISTRICT COURT

9 FOR THE EASTERN DISTRICT OF CALIFORNIA

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11 WILLIAM HENRY THOMAS, No. 2:23-cv-02741-DAD-EFB (HC)

12 Petitioner, ORDER ADOPTING FINDINGS AND

RECOMMENDATIONS, GRANTING

13 v. RESPONDENT’S MOTION TO DISMISS IN

PART, GRANTING PETITIONER’S

14 WARDEN, FOLSOM STATE PRISON, MOTIONS TO STAY, DENYING

PETITIONER’S MOTION FOR

15 Respondent. APPOINTMENT OF COUNSEL, AND

DENYING PETITIONER’S REMAINING

16 MOTIONS AS MOOT

17 (Doc. Nos. 15, 18, 22, 24, 25, 26) 18 19 Petitioner, a state prisoner proceeding pro se and in
forma pauperis, filed an application 20 for a writ of habeas corpus pursuant to 28 U.S.C. § 2254.
The matter was referred to a United 21 States Magistrate Judge pursuant to 28 U.S.C. § 636(b)(1)
(B) and Local Rule 302. 22 On June 13, 2025, the assigned magistrate judge issued findings and
recommendations 23 recommending that: (1) respondent’s motion to dismiss (Doc. No. 18) be
granted in part, and that 24 claims two through six in petitioner’s first amended petition be
dismissed without prejudice; (2) 25 claim one in petitioner’s first amended petition be stayed
under Kelly v. Small, 315 F.3d at 1063, 26 070-71 (9th Cir. 2002); (3) petitioner’s motion for
appointment of counsel (Doc. No. 25) be 27 denied without prejudice; (4) petitioner’s motion for
copy of his file (Doc. No. 25) be denied as 28 moot. (Doc. No. 26.) 1 The pending findings and
recommendations were served on the parties and contained 2 notice that any objections thereto
were to be filed within fourteen (14) days after service. (Id. at 3 3.) To date, no objections to the

findings and recommendations have been filed, and the time in 4 which to do so has now passed. 5
In accordance with the provisions of 28 U.S.C. § 636(b)(1)(C), this court has conducted a 6 de
novo review of the case. Having carefully reviewed the entire file, the court concludes that the 7
findings and recommendations are supported by the record and by proper analysis. 8 Accordingly:
9 1. The findings and recommendations (Doc. No. 26) are adopted in full; 10 2. Respondent's
motion to dismiss (Doc. No. 18) is GRANTED IN PART such that 11 petitioner's claims 2-6 are
dismissed without prejudice; 12 3. Petitioner's motions for a stay under Kelly v. Smalls, 315 F.3d
1063, 1070-71 (9th Cir. 13 2002) (Doc. Nos. 22, 24) are GRANTED, and consideration of claim 1
is hereby 14 stayed pending exhaustion of claims 2-6 in the state courts; 15 4. Petitioner shall
pursue exhaustion of claims 2-6 by submitting a petition in the 16 California Supreme Court
within 30 days of the date of this order; 17 5. Petitioner shall file a motion to lift the stay and a
request to file an amended petition 18 including his newly exhausted claims within 30 days of
exhaustion; 19 6. Respondent shall file and serve either an answer or a motion in response to
petitioner's 20 petition within 60 days from the date of filing of the second amended (fully
exhausted) 21 petition. See Rule 4, Rules Governing § 2254 Cases. Any response shall be 22
accompanied by any and all transcripts or other documents relevant to the 23 determination of the
issues presented in the application. See Rules 4, 5, Rules 24 Governing § 2254 Cases. 25 7.
Petitioner's reply, if any, shall be filed and served within 30 days of service of an 26 answer. 27 8.
If the response to petitioner's application is a motion, petitioner's opposition or 28 statement of
non-opposition shall be filed and served within 30 days of service of the 1 motion, and
respondent's reply, if any, shall be filed within 14 days thereafter. 2 9. Petitioner's motion for
appointment of counsel (Doc. No. 25) is DENIED; 3 10. Petitioner's request that the attorney
general be required to respond to the petition 4 (Doc. No. 15) is DENIED as having been rendered
moot and the Clerk of the Court is 5 directed to terminate that motion in its entirety; and 6 11.
Petitioner's request for a copy of the docket (Doc. No. 25) is also DENIED as having 7 been
rendered moot. 8 IT IS SO ORDERED. | Dated: _ August 15, 2025 Daa A. 2, sel

10 DALE A. DROZD

UNITED STATES DISTRICT JUDGE

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