

UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF
CALIFORNIA

Brooks v. Pierce

Brooks · No. 22-cv-06334-JST · Decided March 31, 2025

SUMMARY

The United States District Court for the Northern District of California dismissed Marcel Brooks’s 28 U.S.C. § 2254 habeas petition because his ineffective-assistance-of-counsel claim had not been exhausted in state court and he failed to respond to the court’s order regarding further proceedings. The court denied a certificate of appealability, entered judgment for the respondent, and directed the Clerk to close the case.

CASE DETAILS

COURT	United States District Court for the Northern District of California
WRITING FOR THE COURT	Jon S. Tigar
JURISDICTION	United States District Court for the Northern District of California
DECIDED	March 31, 2025
DOCKET	22-cv-06334-JST
DISPOSITION	dismissed
PROCEDURAL POSTURE	Petitioner sought federal habeas relief under 28 U.S.C. § 2254. The court dismissed the petition for failure to exhaust state remedies and denied a certificate of appealability.
STANDARD OF REVIEW	A federal district court may not grant habeas relief on an unexhausted claim. A certificate of appealability requires a substantial showing of the denial of a constitutional right; where constitutional claims are rejected on the merits, the petitioner must show that reasonable jurists would find the district court's assessment debatable or wrong.
PRECEDENTIAL VALUE	unpublished district court order
PARTIES	Marcel Brooks v. Christopher Pierce

TOPICS

- federal habeas corpus
- post-conviction relief
- motions to dismiss
- appellate procedure

PRACTICE AREAS

federal habeas corpus

post-conviction relief

appellate procedure

QUESTIONS PRESENTED

1. Whether the federal habeas petition had to be dismissed because its sole ineffective-assistance claim had not been exhausted in state court.
2. Whether Brooks was entitled to a certificate of appealability.

HOLDINGS

1. The petition had to be dismissed because its sole claim was unexhausted and Brooks did not elect a procedure that would allow the claim to proceed after exhaustion.
2. Brooks was not entitled to a certificate of appealability because he did not make the required showing under 28 U.S.C. § 2253(c).

KEY QUOTATIONS

“The Court is therefore barred from considering this claim, and must dismiss this petition.” (at 1)

“For the reasons set forth above, the Court DISMISSES the petition for a writ of habeas corpus, and DENIES a certificate of appealability.” (at 2)

FACTUAL BACKGROUND

Marcel Brooks, an inmate at Ironwood State Prison, challenged an Alameda County conviction through a federal habeas petition. He alleged that trial counsel failed to review all discovery, was unaware of exculpatory text messages, and failed to hire an investigator to interview two witnesses. The ineffective-assistance claim had not been exhausted in state court, and Brooks did not respond to the court's order directing him to choose between voluntary dismissal and a stay and abeyance.

PROCEDURAL HISTORY

Brooks filed a pro se § 2254 petition challenging an Alameda County Superior Court conviction and alleging ineffective assistance of trial counsel. The court granted Respondent's motion to dismiss for failure to exhaust, gave Brooks the choice of voluntarily dismissing and returning to state court or seeking a stay and abeyance, and ordered him to notify the court of his election. Brooks did not respond by the deadline, so the court dismissed the petition and entered judgment for Respondent.

DISPOSITION

dismissed

CASES CITED

- Rhines v. Weber, 544 U.S. 269, 273 (2005)

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

OPINION

Brooks v. McDowell

PER CURIAM.

1 2 3

4 UNITED STATES DISTRICT COURT

5 NORTHERN DISTRICT OF CALIFORNIA

6 7 MARCEL BROOKS, Case No. 22-cv-06334-JST 8 Petitioner,

ORDER OF DISMISSAL; DENYING

9 v. CERTIFICATE OF APPEALABILITY

10 CHRISTOPHER PIERCE,

Respondent. 11 12 13 Petitioner Marcel Brooks, an inmate at Ironwood State Prison, filed a pro se petition for a 14 writ of habeas corpus pursuant to 28 U.S.C. § 2254 challenging a conviction from Alameda 15 County Superior Court. ECF Nos. 1, 5. For the reasons set forth below, the Court DISMISSES 16 the petition for failure to exhaust state court remedies, and DENIES a certificate of appealability.

17 DISCUSSION

18 The petition states the following cognizable claim for federal habeas relief: trial counsel 19 was ineffective because he failed to review all the discovery, was unaware of exculpatory text 20 messages, and did not hire a private investigator to interview two key witnesses who would have 21 proven Petitioner's innocence. ECF Nos. 5, 14. 22 On February 10, 2025, the Court granted Respondent's motion to dismiss, finding that 23 Petitioner had not exhausted state court remedies for his ineffective assistance of counsel claim. 24 ECF No. 21. The Court ordered Petitioner to elect whether he wished to (1) voluntarily dismiss 25 this petition and return to state court to exhaust his claim before filing a new federal petition 26 presenting only fully-exhausted claims ; or (2) stay and abey this petition while he returns to state 27 court to exhaust his claims. Id. The Court instructed Petitioner to notify the Court of his election 1 result in this action being dismissed for failure to exhaust, or failure to prosecute or obey a court 2 order pursuant to Fed. R. Civ. P. 41(a)(2). Id. The deadline has passed, and Petitioner has not 3 informed the Court how he wishes to proceed, or communicated with the Court at all. The sole 4 || claim in this federal habeas petition is unexhausted. ECF No. 21. The Court is therefore barred 5 from considering this claim, and must dismiss this petition. See 28 U.S.C. § 2254(b)(1)(A)-(B) 6 (district court may not grant habeas writ unless state court remedies are exhausted); Rhines v. 7 Weber, 544 US. 269, 273 (2005) (federal district court must dismiss federal habeas petition 8 containing any claim as to which state remedies are unexhausted). Pursuant to 28 U.S.C. 9 § 2254(b)(1) and Fed. R. Civ. P. 41(b), the Court DISMISSES this petition for failure to exhaust 10 state court remedies. 11 The federal rules governing habeas cases brought by state prisoners require a district court q 12 that

issues an order denying a habeas petition to either grant or deny therein a certificate of 5 13
appealability. See Rules Governing § 2254 Case, Rule 11(a). A judge shall grant a certificate of S
14 || appealability “only if the applicant has made a substantial showing of the denial of a
constitutional 3 15 || right,” 28 U.S.C. § 2253(c)(2), and the certificate must indicate which issues
satisfy this standard. a 16 Id. § 2253(c)(3). “Where a district court has rejected the constitutional
claims on the merits, the 3 17 showing required to satisfy § 2253(c) is straightforward: [t]he
petitioner must demonstrate that 18 || reasonable jurists would find the district court’s assessment
of the constitutional claims debatable 19 or wrong.” *Slack v. McDaniel*, 529 U.S. 473, 484 (2000).
Here, Petitioner has not made such a 20 showing, and, accordingly, a certificate of appealability
will be denied.

21 CONCLUSION

22 For the reasons set forth above, the Court DISMISSES the petition for a writ of habeas 23
corpus, and DENIES a certificate of appealability. Judgment is entered in favor of Respondent 24
and against Petitioner. The Clerk shall close the case. 25 IT IS SO ORDERED. 26 Dated: March
31, 2025 .

27 JON S. TIGAR

28 ited States District Judge