

UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF
CALIFORNIA

Lemus v. Andes

No. 2:24-cv-3286-SCR (E.D. Cal. June 13, 2025) · No. 2:24-cv-3286-SCR · Decided June 13, 2025

SUMMARY

The United States District Court for the Eastern District of California partially granted and partially denied the respondent’s motion to dismiss a state prisoner’s 28 U.S.C. § 2254 petition. The court denied dismissal based on alleged pleading deficiencies, but dismissed and struck claims three and four without prejudice because they were unexhausted. The court ordered an answer on claims one, two, five, and six.

CASE DETAILS

COURT	United States District Court for the Eastern District of California
WRITING FOR THE COURT	Sean C. Riordan
JURISDICTION	United States District Court for the Eastern District of California
DECIDED	June 13, 2025
DOCKET	2:24-cv-3286-SCR
DISPOSITION	other
PROCEDURAL POSTURE	Respondent moved to dismiss a state prisoner’s 28 U.S.C. § 2254 petition for failure to satisfy Rule 2(c) pleading requirements and for failure to exhaust claims three and four. The court denied dismissal based on pleading deficiencies but granted dismissal without prejudice as to claims three and four for nonexhaustion.
STANDARD OF REVIEW	A federal habeas petition may not be entertained unless state remedies have been exhausted as to each claim. A petitioner must fairly present the operative facts and federal legal theory to the state’s highest court. For pleading sufficiency, Rule 2(c) requires claims to be stated with sufficient particularity, but attached materials may be considered in determining whether that requirement is met.
PRECEDENTIAL VALUE	unpublished district court order; nonprecedential
PARTIES	Raul R. Lemus v. Chance Andes

TOPICS

federal habeas corpus

motions to dismiss

pleadings

post-conviction relief

civil procedure

PRACTICE AREAS

Federal habeas corpus

Post-conviction relief

Federal civil procedure

QUESTIONS PRESENTED

1. Whether the § 2254 petition should be summarily dismissed under Rule 2(c) of the Rules Governing Section 2254 Cases because the claims were allegedly conclusory or unintelligible.
2. Whether claims three and four were unexhausted because petitioner had not presented his ineffective-assistance and jury-selection claims to the California Supreme Court.
3. What disposition was appropriate for the unexhausted claims in the mixed habeas petition.

HOLDINGS

1. The petition sufficiently stated its claims for relief because Exhibit A attached to the petition described all six claims in greater detail than the § 2254 form itself; therefore, summary dismissal on pleading grounds was unwarranted.
2. Claims three and four were unexhausted because petitioner had not presented them to the California Supreme Court on direct appeal or in his state habeas petition.
3. Claims three and four were dismissed without prejudice and stricken from the petition, while respondent was ordered to answer claims one, two, five, and six.

KEY QUOTATIONS

“The court will strike them from the § 2254 petition and order an answer on the remaining claims.” (at 5)

“Claims three and four of petitioner’s application for a writ of habeas corpus are dismissed without prejudice as unexhausted and stricken from the petition.” (at 6)

FACTUAL BACKGROUND

Following a jury trial, Raul R. Lemus was convicted in Butte County Superior Court of evading an officer’s vehicle against traffic and assault with a deadly weapon on a peace officer and was sentenced to eleven years and four months in prison. His direct appeal and petition for review challenged counsel’s refusal to allow an insanity plea, denial of Marsden motions, and cumulative error. In the present federal petition, Lemus raised six claims, including alleged falsification of a police report, coercion of his confession, Brady violations, ineffective assistance, unconstitutional jury selection, denial of the right to present a defense, and denial of a motion to relieve counsel.

PROCEDURAL HISTORY

After a jury convicted petitioner in Butte County Superior Court, the California Court of Appeal affirmed, and the California Supreme Court denied review. Petitioner previously filed a federal habeas petition that was dismissed without prejudice for failure to exhaust, then filed a state habeas petition that was denied. He filed the

present § 2254 petition asserting six claims. The court granted in part and denied in part respondent's motion to dismiss, struck claims three and four, and ordered an answer on claims one, two, five, and six.

DISPOSITION

other

CASES CITED

- California v. Marsden, 2 Cal.3d 118 (1970)
- Houston v. Lack, 487 U.S. 266 (1988)
- Brady v. Maryland, 373 U.S. 83, 87 (1963)
- Picard v. Connor, 404 U.S. 270, 276 (1971)
- Middleton v. Cupp, 768 F.2d 1083, 1086 (9th Cir. 1985)
- Baldwin v. Reese, 541 U.S. 27, 29 (2004)
- Kelly v. Small, 315 F.3d 1063, 1066 (9th Cir. 2003)
- Robbins v. Carey, 481 F.3d 1143 (9th Cir. 2007)
- Rose v. Lundy, 455 U.S. 509 (1982)
- Ross v. Williams, 2018 WL 3468064, at *11 (9th Cir. 2018)
- Ross v. Williams, 950 F.3d 1160 (9th Cir. 2020) (en banc)
- Dye v. Hofbauer, 546 U.S. 1, 5 (2005) (per curiam)