

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

James Scott v. Kelly Santoro

Scott v. Santoro · No. 25-cv-05202-AMO (PR) · Decided December 15, 2025

OPINION

1 2 3 4 UNITED STATES DISTRICT COURT 5 NORTHERN DISTRICT OF CALIFORNIA 6 7
JAMES SCOTT, Case No. 25-cv-05202-AMO (PR) 8 Petitioner, ORDER VACATING
NOVEMBER 17, 2025 ORDER TO SHOW CAUSE, STAYING 9 v. HABEAS PROCEEDINGS;
AND DIRECTING PETITIONER TO FILE 10 KELLY SANTORO, Acting Warden,
QUARTERLY STATUS REPORTS 11 Respondent. Re: Dkt. No. 2 12 Petitioner James Scott, a
prisoner currently incarcerated at Salinas Valley State Prison, 13 filed a petition for a writ of
habeas corpus under 28 U.S.C. § 2254, representing himself.

Dkt. 12. 14 On November 17, 2025, the Court issued its Order to Show Cause and granted his
motion for 15 leave to proceed in forma pauperis. Dkt. 13. 16 Before the Court is Scott’s request
for a stay and abeyance, in which he admits that his 17 petition contains only unexhausted claims
that have not been exhausted before the state courts. 18 See Dkt. 2 at 1-2.

Scott has also attached his state supreme court habeas petition, see Dkt. 1 at 77- 19 85, which he
claims he submitted to the state supreme court “simultaneously to exhaust all claims 20 [he] set
forth,” see Dkt. 2 at 2.

Therefore, he requests a stay of the proceedings while he 21 completes the process of exhausting
his unexhausted claims in state court. Id. 22 Prisoners in state custody seeking to challenge
collaterally in federal habeas proceedings 23 either the fact or length of their confinement are first
required to exhaust state judicial remedies, 24 either on direct appeal or through collateral
proceedings, by presenting the highest state court 25 available with a fair opportunity to rule on
the merits of each and every claim they seek to raise in 26 federal court.

28 U.S.C. § 2254(b), (c); *Rose v. Lundy*, 455 U.S. 509, 515-16 (1982). The 27 1 state courts, see
Crotts v. Smith, 73 F.3d 861, 865 (9th Cir. 1996); or (2) no state remedy remains 2 available, see
Johnson v. Zenon, 88 F.3d 828, 829 (9th Cir. 1996). Scott has a pending state 3 supreme court
habeas petition, which includes all the claims that were not exhausted at the time he 4 filed the
instant federal petition.

Dkt. 2 at 2. Accordingly, the instant federal petition contains 5 unexhausted claims. 6 While
district courts have the authority to issue stays of mixed petitions, their discretion is 7
circumscribed by the Antiterrorism and Effective Death Penalty Act’s (“AEDPA”) stated purpose

8 of reducing delay in the execution of criminal sentences and encouraging petitioners to seek relief 9 in the state courts before filing their claims in federal court.

See *Rhines v. Webber*, 544 U.S. 269, 10 277 (2005). A district court also has the discretion to stay a petition containing only unexhausted 11 claims under the circumstances set forth in *Rhines*. See *Mena v. Long*, 813 F.3d 907, 909 (9th Cir. 12 2016). 13 Because the use of a stay and abeyance procedure has the potential to undermine these dual 14 purposes of AEDPA, its use is only appropriate where the district court has first determined that 15 there was good cause for the petitioner's failure to exhaust the claims in state court and that the 16 claims are potentially meritorious.

Id. Here, the Court finds that Scott has not engaged in dilatory 17 tactics, and his unexhausted claims appear to be potentially meritorious. 18 Good cause appearing, the Court's November 17, 2025 Order to Show Cause is 19 VACATED, Scott's request for a stay and abeyance is GRANTED, and the petition for a writ of 20 habeas corpus is construed as a protective petition and STAYED so that Scott can exhaust his 21 unexhausted claims in the state courts.

See *Pace v. DiGuglielmo*, 544 U.S. 408, 416 (2005) 22 (holding that prisoners who run risk of having federal statute of limitation expire while exhausting 23 their state remedies may avoid this predicament "by filing a 'protective' petition in federal court 24 and asking the federal court to stay and abey the federal habeas proceedings until state remedies 25 are exhausted"); see also *Rhines*, 544 U.S. at 277-78.

26 Scott must act diligently in exhausting his state judicial remedies, or the stay may be lifted. 27 He must file quarterly reports describing the progress of his state court proceedings, commencing 1 thereafter until his state court proceedings are terminated. He must also attach to his status reports 2 || copies of the cover page of any document that he files with or receives from the state courts 3 || relating to the claims.

4 Nothing further will take place in this action until Scott receives a final decision from the 5 highest state court and, within twenty-eight (28) days of doing so, moves to reopen the action, lift 6 || the Court's stay and amend the stayed petition to include any newly-exhausted claims. 7 IT IS SO ORDERED. 8 || Dated: December 15, 2025 9 HO - 10 Cascek Will ARACELI MARTINEZ-OLGUIN United States District Judge 12 13 15 16 17 Z 18 19 20 21 22 23 24 25 26 27 28