

UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF
CALIFORNIA

Ahmad Rasha Fuller v. Warden

No. 2:25-cv-0781-DC-CKD P (E.D. Cal. Aug. 18, 2025) · No. 2:25-cv-0781-DC-CKD P · Decided August 19,
2025

SUMMARY

The United States District Court for the Eastern District of California vacated its prior findings and recommendations recommending dismissal of Ahmad Rasha Fuller's 28 U.S.C. § 2254 petition for failure to exhaust state remedies. The court granted Fuller leave to file a Second Amended Petition within 45 days and denied his requests for appointment of counsel without prejudice. The order also directed the Clerk to provide Fuller with the appropriate habeas corpus application form.

CASE DETAILS

COURT	United States District Court for the Eastern District of California
WRITING FOR THE COURT	Carolyn K. Delaney
JURISDICTION	United States District Court for the Eastern District of California
DECIDED	August 19, 2025
DOCKET	2:25-cv-0781-DC-CKD P
DISPOSITION	other
PROCEDURAL POSTURE	Petitioner sought federal habeas relief under 28 U.S.C. § 2254. The court vacated its prior findings and recommendations recommending summary dismissal for failure to exhaust, denied appointment of counsel without prejudice, and granted leave to file a further amended petition.
STANDARD OF REVIEW	Screening under the pleading requirements applicable to § 2254 petitions and review of whether the petition appeared to satisfy the exhaustion requirement; the opinion does not state a separately labeled standard of review.
PRECEDENTIAL VALUE	unpublished
PARTIES	Ahmad Rasha Fuller, Petitioner v. Warden, Respondent

TOPICS

federal habeas corpus

post-conviction relief

pleadings

civil procedure

PRACTICE AREAS

federal habeas corpus

post-conviction relief

civil procedure

QUESTIONS PRESENTED

1. Whether the court should vacate its recommendation of summary dismissal for failure to exhaust in light of Fuller's statement that state-court review had recently been denied.
2. Whether Fuller was entitled to appointment of counsel in the § 2254 proceeding.
3. Whether Fuller should be granted leave to file a further amended habeas petition.

HOLDINGS

1. The court vacated the pending findings and recommendations because Fuller's statement regarding the recent denial of state-court review warranted an opportunity to file a further amended federal petition.
2. Fuller's requests for appointment of counsel were denied without prejudice because there is no absolute right to counsel in habeas proceedings and the court did not find that the interests of justice presently required appointment.
3. Fuller was granted 45 days to file a second amended petition using the court-provided habeas form, with failure to do so resulting in a recommendation that the action be dismissed.

KEY QUOTATIONS

“Based on petitioner’s statement that he had a petition for review relevant to a San Joaquin County case recently denied for review in the California Supreme Court, the undersigned will vacate the pending findings and recommendations to dismiss this action for failure to exhaust and grant petitioner an opportunity to file a further amended federal petition using the form provided by the court with this order.” (at 1)

“There is no absolute right to appointment of counsel in habeas proceedings.” (at 2)

“Petitioner is granted leave to file an amended petition on the form provided by the court within 45 days of the date of this order; any amended petition must bear the case number assigned to this action and must be titled “Second Amended Petition”; failure to file a Second Amended Petition will result in a recommendation that this action be dismissed.” (at 3)

FACTUAL BACKGROUND

Ahmad Fuller, a state prisoner, filed a federal habeas petition under 28 U.S.C. § 2254 and sought a stay of his criminal sentence. The first amended petition did not comply with Rule 2(c) and did not fairly notify the court of the factual basis for the claims. The petition also appeared to indicate that Fuller had not exhausted state remedies, although his later letters stated that a petition for review concerning a San Joaquin County case had recently been denied by the California Supreme Court.

PROCEDURAL HISTORY

Fuller filed a § 2254 petition and a motion to stay his criminal sentence. After screening the first amended petition, the court found that it failed to comply with Rule 2(c) of the Rules Governing Section 2254 Cases and did not provide fair notice of the factual bases for the claims; the court also found that the petition appeared unexhausted and recommended summary dismissal. Fuller did not file clearly labeled objections, but later submitted letters stating that review in a San Joaquin County case had recently been denied by the California Supreme Court. The court therefore vacated the pending findings and recommendations, denied counsel, and allowed Fuller 45 days to file a second amended petition.

DISPOSITION

other

REMAND INSTRUCTIONS

No remand to a lower court was ordered. The clerk was directed to send Fuller the habeas application form, and Fuller was granted 45 days from the date of the order to file a second amended petition. Failure to file may result in a recommendation of dismissal.

CASES CITED

- Nevius v. Sumner, 105 F.3d 453, 460 (9th Cir. 1996)
- Rose v. Lundy, 455 U.S. 509, 515-16 (1982)
- O’Sullivan v. Boerckel, 526 U.S. 838, 845 (1999)

OPINION

1 2 3 4 5 6 7 8 UNITED STATES DISTRICT COURT 9 FOR THE EASTERN DISTRICT OF
CALIFORNIA 10 11 AHMAD RASHA FULLER, No. 2:25-cv-0781-DC-CKD P 12 Petitioner, 13
v. ORDER VACATING FINDINGS AND RECOMMENDATIONS 14 WARDEN, 15 Respondent.
16 17 Petitioner Ahmad Fuller, a state prisoner, filed a petition for writ of habeas corpus under 18
28 U.S.C. § 2254 and a motion requesting a stay of his criminal sentence pending habeas review.

19 (ECF Nos. 1, 2.) Petitioner paid the filing fee. On April 30, 2025, the undersigned screened the
20 operative first amended petition and found it failed to comply with Rule 2(c) of the Rule 21
Governing Section 2254 Cases and did not give fair notice of the factual basis for the claims. 22
(ECF No. 6.)

In addition, because the face of the petition indicated petitioner had not exhausted 23 state court
remedies on any of the grounds presented, the undersigned recommended the petition 24 be
summarily dismissed for failure to exhaust. (Id.) 25 Petitioner did not file any clearly labeled
objections to the findings and recommendations. 26 However, on June 12, 2025, petitioner filed a
letter requesting appointment of counsel.

(ECF No. 27 8.) On June 18, 2025, petitioner filed another letter requesting appointment of counsel which 28 stated “I have a case out of San Joaquin County that was recently denied for review in the 1 Supreme Court, I would like to further my appeal within the United States District Court Eastern 2 District of California. [¶] This letter is to inform the court [that] I would like to file for an appeal 3 in this Court[.]” (ECF No. 8.)

4 Based on petitioner’s statement that he had a petition for review relevant to a San Joaquin 5 County case recently denied for review in the California Supreme Court, the undersigned will 6 vacate the pending findings and recommendations to dismiss this action for failure to exhaust and 7 grant petitioner an opportunity to file a further amended federal petition using the form provided 8 by the court with this order.

If petitioner files a further amended petition, the court will screen it 9 for compliance with the exhaustion requirement¹ and applicable pleading standards. 10 Petitioner’s requests for the appointment of counsel will be denied. There is no absolute 11 right to appointment of counsel in habeas proceedings. See *Nevius v. Sumner*, 105 F.3d 453, 460 12 (9th Cir.

1996). However, 18 U.S.C. § 3006A authorizes the appointment of counsel at any stage 13 of the case “if the interests of justice so require.” See Rule 8(c), Fed. R. Governing § 2254 Cases. 14 In the present case, the court does not find that the interests of justice would be served by the 15 appointment of counsel at the present time. 16 Plain Language Summary for Pro Se Party 17 The following information is meant to explain this order in plain English.

This 18 information is not intended as legal advice. 19 The court reviewed your letter stating your petition for review was recently denied by the 20 Supreme Court. The recommendation to dismiss this action for failure to exhaust is being vacated 21 and you are being granted an opportunity to file a further amended federal petition in this action. 22 If you file a further amended petition, the court will screen it and determine whether you can 23 proceed in this case.

24 //// 25 1 Federal law requires all habeas claims to be presented first to the state courts in order to correct any constitutional error. See 28 U.S.C. § 2254(b)(1)(A); see also *Rose v. Lundy*, 455 U.S. 509, 26 515-16 (1982) (explaining why federal habeas petitioners must exhaust claim by giving state 27 courts the first opportunity to correct constitutional error); *O’Sullivan v. Boerckel*, 526 U.S. 838, 845 (1999) (explaining that exhaustion requires the completion of “one complete round” of state 28 court review).

1 Order 2 In accordance with the above, IT IS HEREBY ORDERED as follows: 3 1. Petitioner’s requests for appointment of counsel (ECF Nos. 7, 8) are DENIED without 4 prejudice to a renewal of the motion at a later stage of the proceedings. 5 2.

The findings and recommendations filed April 30, 2025 (ECF No. 6) are VACATED. 6 3. The Clerk of the Court is directed to send petitioner the form for habeas corpus 7 application. 8 4.

Petitioner is granted leave to file an amended petition on the form provided by the 9 court within 45 days of the date of this order; any amended petition must bear the case 10 number assigned to this action and must be titled "Second Amended Petition"; failure 11 to file a Second Amended Petition will result in a recommendation that this action be 12 dismissed.

13 | Dated: August 18, 2025 / ae □□ / a Ly a 4 CAROLYN K DELANEY 15 UNITED STATES
MAGISTRATE JUDGE 16 17 || 8, fullo781.vactrlta 18 19 20 21 22 23 24 25 26 27 28