

**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

OPINION

(HC) Fuller v. Warden

PER CURIAM.

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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
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