

UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF
CALIFORNIA

Stewart v. Covello

544 U.S. 269 (E.D. Cal. 2025) · No. 2:25-cv-0819 DC CKD P · Decided April 14, 2025

SUMMARY

The United States District Court for the Eastern District of California addresses a California prisoner’s requests to stay his habeas corpus proceedings under Kelly v. Small and Rhines v. Weber. The court recommends granting a Kelly stay, denying the Rhines request as moot, and proceeds on the amended petition.

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	April 14, 2025
DOCKET	2:25-cv-0819 DC CKD P
DISPOSITION	other
PROCEDURAL POSTURE	Petitioner filed an amended petition for a writ of habeas corpus under 28 U.S.C. § 2254 and sought stays under Kelly v. Small and Rhines v. Weber.
PRECEDENTIAL VALUE	Unknown; findings and recommendations in a district court habeas proceeding
PARTIES	Charles Ranando Stewart, Jr. v. Patrick Covello

TOPICS

- federal habeas corpus
- post-conviction relief
- pleadings

PRACTICE AREAS

- Federal habeas corpus
- Post-conviction relief
- Civil procedure

QUESTIONS PRESENTED

- Whether the original habeas petition should be dismissed after petitioner filed an amended petition.

2. Whether petitioner was entitled to a stay under *Kelly v. Small* while exhausting state-court remedies for claims omitted from the amended petition.
3. Whether petitioner was entitled to a stay under *Rhines v. Weber* when the amended petition contained no unexhausted claims.

HOLDINGS

1. The original petition should be dismissed, and the action should proceed on the amended petition filed April 11, 2025.
2. A stay under *Kelly v. Small* should be granted while petitioner exhausts state-court remedies with respect to claims not appearing in the amended petition.
3. The request for a *Rhines* stay should be denied as moot because the amended petition contained no unexhausted claims.

KEY QUOTATIONS

“Because the amended petition does not contain unexhausted claims, a Rhines stay is not appropriate.” (at 1)

FACTUAL BACKGROUND

Charles Ranando Stewart, Jr., a California prisoner, filed an amended petition for federal habeas relief under 28 U.S.C. § 2254. He sought to stay the action while exhausting state-court remedies on claims that were not included in the amended petition. Because the amended petition contained no unexhausted claims, the court concluded that a *Rhines* stay was not appropriate.

PROCEDURAL HISTORY

Petitioner originally filed a federal habeas petition and then filed an amended petition on April 11, 2025. He sought a *Kelly* stay while exhausting claims omitted from the amended petition and a *Rhines* stay. The magistrate judge recommended dismissing the original petition, proceeding on the amended petition, granting the *Kelly* stay, and denying the *Rhines* stay as moot, subject to objections under 28 U.S.C. § 636(b)(1).

DISPOSITION

other

CASES CITED

- *Kelly v. Small*, 315 F.3d 1063 (9th Cir. 2003)
- *Rhines v. Weber*, 544 U.S. 269 (2005)
- *Martinez v. Yist*, 951 F.2d 1153 (9th Cir. 1991)

OPINION

1 2 3 4 5 6 7 8 UNITED STATES DISTRICT COURT 9 FOR THE EASTERN DISTRICT OF
CALIFORNIA 10 11 CHARLES RANANDO STEWART, JR., No. 2:25-cv-0819 DC CKD P 12

Petitioner, 13 v. ORDER AND 14 PATRICK COVELLO, FINDINGS AND RECOMMENDATIONS 15 Respondent. 16 17 Petitioner, a California prisoner, has filed an amended petition for a writ of habeas corpus 18 under 28 U.S.C. § 2254 and asks that the petition be stayed pursuant to Kelly v. Small, 315 F.3d 19 1063 (9th Cir.

2003) while he exhausts state court remedies with respect to claims not appearing 20 in the amended petition. Good cause appearing, the court will recommend that this request be 21 granted. 22 Petitioner's request for a stay under Rhines v. Weber, 544 U.S. 269 (2005) is rendered 23 moot by the filing of the amended petition.

Under Rhines, the court can stay a petition with 24 unexhausted claims. Because the amended petition does not contain unexhausted claims, a 25 Rhines stay is not appropriate. 26 Accordingly, IT IS HEREBY ORDERED that petitioner's original petition for a writ of 27 habeas corpus is dismissed and this action proceeds on the amended petition filed April 11, 2025.

28 ///// 1 IT IS HEREBY RECOMMENDED that: 2 1. Petitioner's request for a stay under Rhines v. Weber, 544 U.S. 269 (2005) be denied 3 || as moot. 4 2. Petitioner's request for a stay under Kelly v. Small, 315 F.3d 1063 (9th Cir. 2003) 5 || (ECF No. 2) be granted. 6 These findings and recommendations are submitted to the United States District Judge 7 || assigned to the case, pursuant to the provisions of 28 U.S.C. § 636(b)(1).

Within fourteen days 8 | after being served with these findings and recommendations, petitioner may file written 9 || objections with the court. Such a document should be captioned "Objections to Magistrate 10 || Judge's Findings and Recommendations." Petitioner is advised that failure to file objections 11 || within the specified time may waive the right to appeal the District Court's order.

Martinez v. 12 | Yist, 951 F.2d 1153 (9th Cir. 1991). 13 | Dated: April 14, 2025 / 20 } if | Ld □ a 4 CAROLYN K DELANEY 15 UNITED STATES MAGISTRATE JUDGE 16 17 18 || stew.819.stay 19 20 21 22 23 24 25 26 27 28