

UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF  
CALIFORNIA

**Guillory v. San Mateo County**

Guillory · No. 25-cv-00873-JST · Decided July 8, 2025

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**SUMMARY**

The United States District Court for the Northern District of California dismissed Andrew Samuel Guillory’s pro se petition for a writ of habeas corpus under 28 U.S.C. § 2254 because he had not exhausted available state court remedies. The dismissal was without prejudice to refile after exhaustion. The court granted leave to proceed in forma pauperis and denied a certificate of appealability.

**OPINION**

1 2 3 4 UNITED STATES DISTRICT COURT 5 NORTHERN DISTRICT OF CALIFORNIA 6 7  
ANDREW SAMUEL GUILLORY, Case No. 25-cv-00873-JST 8 Petitioner, ORDER  
DISMISSING PETITION FOR 9 v. A WRIT OF HABEAS CORPUS; DENYING CERTIFICATE  
OF 10 SAN MATEO COUNTY, APPEALABILITY 11 Respondent. 12 13 Petitioner has filed a  
pro se petition for writ of habeas corpus pursuant to 28 U.S.C. § 14 2254.

ECF No. 1. His petition is now before the Court for review pursuant to 28 U.S.C. § 2243 15 and  
Rule 4 of the Rules Governing Section 2254 Cases in the United States District Courts. 16  
DISCUSSION 17 I. Standard of Review 18 This court may entertain a petition for writ of habeas  
corpus “in behalf of a person in 19 custody pursuant to the judgment of a state court only on the  
ground that he is in custody in 20 violation of the Constitution or laws or treaties of the United  
States.” 28 U.S.C. § 2254(a); Rose v. 21 Hodges, 423 U.S. 19, 21 (1975).

A district court shall “award the writ or issue an order directing 22 the respondent to show cause  
why the writ should not be granted, unless it appears from the 23 application that the applicant or  
person detained is not entitled thereto.” 28 U.S.C. § 2243. 24 II. Petition 25 In the petition,  
Petitioner states that he is on supervised release pursuant to either a 26 conviction or nolo  
contendere plea in San Mateo County Superior Court criminal Case No. 27 22NFO12899 for  
“failure to register.” On April 21, 2023, Petitioner was convicted and sentenced 1 of counsel and  
unlawful confinement.

Petitioner states that he did not seek review in the 2 California Supreme Court. See generally ECF  
No. 1. 3 III. Dismissal for Failure to Exhaust State Court Remedies 4 The Court DISMISSES this  
action for failure to exhaust state court remedies.

Before a 5 petitioner may bring a Section 2254 petition to challenge either the fact or length of his or her 6 confinement, the petitioner must first exhaust state judicial remedies, either on direct appeal or 7 through collateral proceedings, by presenting the highest state court available with a fair 8 opportunity to rule on the merits of each and every claim they seek to raise in federal court.

See 28 9 U.S.C. § 2254(b), (c); *Rose v. Lundy*, 455 U.S. 509, 515-16 (1982). A district court may not grant 10 the writ unless state court remedies are exhausted, or there is “an absence of available state 11 corrective process,” or such process has been “rendered ineffective.” See 28 U.S.C. 12 § 2254(b)(1)(A)-(B). Petitioner states in his petition that he did not seek review in the California 13 Supreme Court, which means that he failed to exhaust his state court remedies as required by 28 14 U.S.C. § 2254(b)(1).

The Court therefore DISMISSES this petition for failure to exhaust state 15 court remedies. The dismissal is without prejudice to refiling once state court remedies are 16 exhausted. 17 IV. Denying Certificate of Appealability 18 The federal rules governing habeas cases brought by state prisoners require a district court 19 that issues an order denying a habeas petition to either grant or deny therein a certificate of 20 appealability.

See Rules Governing § 2254 Case, Rule 11(a). 21 A judge shall grant a certificate of appealability “only if the applicant has made a 22 substantial showing of the denial of a constitutional right,” 28 U.S.C. § 2253(c)(2), and the 23 certificate must indicate which issues satisfy this standard. *Id.* § 2253(c)(3). “Where a district 24 court has rejected the constitutional claims on the merits, the showing required to satisfy § 2253(c) 25 is straightforward: [t]he petitioner must demonstrate that reasonable jurists would find the district 26 court’s assessment of the constitutional claims debatable or wrong.” *Slack v. McDaniel*, 529 U.S. 27 473, 484 (2000).

1 appealability will be denied. 2 CONCLUSION 3 For the reasons set forth above, the Court GRANTS Petitioner’s request to proceed in 4 || forma pauperis, ECF No. 6; DISMISSES the petition for a writ of habeas corpus; and DENIES a 5 certificate of appealability. Judgment shall be entered in favor of Respondent and against 6 || Petitioner.

The Clerk is directed to close the case. 7 This order terminates ECF No. 6. 8 IT IS SO ORDERED. 9 Dated: July 8, 2025 10 JON S. TIGAR\ 11 nited States District Judge 12 15 16 17 Z 18 19 20 21 22 23 24 25 26 27 28