

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

OPINION

Guillory v. San Mateo County

PER CURIAM.

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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 opportunity to rule on the merits of each and every claim they seek to raise in federal court. See 28 U.S.C. § 2254(b), (c); *Rose v. Lundy*, 455 U.S. 509, 515-16 (1982). A district court may not grant the writ unless state court remedies are exhausted, or there is “an absence of available state corrective process,” or such process has been “rendered ineffective.” See 28 U.S.C. § 2254(b)(1)(A)-(B). Petitioner states in his petition that he did not seek review in the California Supreme Court, which means that he failed to exhaust his state court remedies as required by 28 U.S.C. § 2254(b)(1). The Court therefore DISMISSES this petition for failure to exhaust state court remedies. The dismissal is without prejudice to refiling once state court remedies are exhausted. IV. Denying Certificate of Appealability The federal rules governing habeas cases brought by state prisoners require a district court that issues an order denying a habeas petition to either grant or deny therein a certificate of appealability. See Rules Governing § 2254 Case, Rule 11(a). A judge shall grant a certificate of appealability “only if the applicant has made a substantial showing of the denial of a constitutional right,” 28 U.S.C. § 2253(c)(2), and the certificate must indicate which issues satisfy this standard. *Id.* § 2253(c)(3). “Where a district court has rejected the constitutional claims on the merits, the showing required to satisfy § 2253(c) is straightforward: [t]he petitioner must demonstrate that reasonable jurists would find the district court’s assessment of the constitutional claims debatable or wrong.” *Slack v. McDaniel*, 529 U.S. 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