

UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF CALIFORNIA

Kenneth Moore v. Jeffery McComber, et al.

Moore v. McComber · No. 25-cv-03458 EJD (PR) · Decided November 17, 2025

SUMMARY

The United States District Court for the Northern District of California dismissed Kenneth Moore’s 28 U.S.C. § 2254 habeas petition without prejudice for failure to exhaust state judicial remedies. The court rejected Moore’s assertion that exhaustion was futile and held that he had not presented his claims to the California Supreme Court before filing the federal action.

CASE DETAILS

COURT	United States District Court for the Northern District of California
JURISDICTION	United States District Court for the Northern District of California
DECIDED	November 17, 2025
DOCKET	25-cv-03458 EJD (PR)
DISPOSITION	dismissed
PROCEDURAL POSTURE	A state prisoner petitioned for federal habeas corpus relief under 28 U.S.C. § 2254. After the court ordered him to clarify whether he had exhausted his state remedies, he admitted that he had not presented all of his claims to the California Supreme Court. The district court dismissed the petition without prejudice for failure to exhaust state remedies.
STANDARD OF REVIEW	A federal habeas court may not reach claims challenging a state conviction or confinement until the petitioner has exhausted available state judicial remedies by fairly presenting each claim to the highest available state court.
PRECEDENTIAL VALUE	unpublished district court order; nonprecedential
PARTIES	Kenneth Moore v. Jeffery McComber, et al.

TOPICS

- federal habeas corpus
- post-conviction relief
- state post-conviction relief

PRACTICE AREAS

QUESTIONS PRESENTED

1. Whether the federal habeas petition had to be dismissed because petitioner had not exhausted his state judicial remedies.
2. Whether petitioner's asserted belief that he could not receive a fair and impartial state-court hearing established that exhaustion was futile or otherwise excused.

HOLDINGS

1. A state prisoner must exhaust available state judicial remedies by fairly presenting each federal habeas claim to the highest available state court before seeking federal habeas relief. Because petitioner admitted that he had not presented his claims to the California Supreme Court, the petition was not ripe for federal review and had to be dismissed without prejudice.
2. Petitioner's belief that state judges and prosecutors would be biased or that he would not receive a favorable result did not establish futility and did not excuse exhaustion.

KEY QUOTATIONS

"Therefore, the petition is not ripe for federal review because Petitioner has still not exhausted his state judicial remedies." (at 3)

"For the foregoing reasons, the petition for writ of habeas corpus is DISMISSED for failure to exhaust state remedies." (at 3)

FACTUAL BACKGROUND

Kenneth Moore was convicted of first-degree murder with special circumstances and sentenced on May 7, 1980, to life imprisonment without the possibility of parole. The California Supreme Court denied review on April 9, 2003. Moore filed a federal habeas petition in 2025, while also indicating that a resentencing petition under California Penal Code section 1172.1 remained pending in Alameda County Superior Court. In response to the district court's exhaustion order, Moore admitted that he had not presented all of his federal claims to the California Supreme Court.

PROCEDURAL HISTORY

Petitioner was convicted in California state court and sentenced to life without parole. He filed a federal habeas petition on April 18, 2025, attaching numerous documents and referring to a pending state resentencing petition. The district court ordered him to clarify exhaustion, and petitioner responded that his claims had not been fully exhausted because he believed he could not receive a fair and impartial state hearing. The court dismissed the federal petition without prejudice.

DISPOSITION

dismissed

CASES CITED

- Duckworth v. Serrano, 454 U.S. 1, 3-5 (1981)
- Rose v. Lundy, 455 U.S. 509, 522 (1982)
- Rose v. Lundy, 455 U.S. 509, 510 (1982)
- Guizar v. Estelle, 843 F.2d 371, 372 (9th Cir. 1988)
- Sweet v. Cupp, 640 F.2d 233, 236 (9th Cir. 1981)
- Alfaro v. Johnson, 862 F.3d 1176, 1180-81 (9th Cir. 2017)
- Engle v. Isaac, 456 U.S. 107, 130 (1982)
- Picard v. Connor, 404 U.S. 270, 275 (1971)
- Crotts v. Smith, 73 F.3d 861, 865 (9th Cir. 1996)
- Johnson v. Zenon, 88 F.3d 828, 829 (9th Cir. 1996)

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