

UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF
CALIFORNIA

Levy v. Morales

No. 1:25-cv-0072 JLT EPG (E.D. Cal. May 1, 2025) · No. 1:25-cv-0072 JLT EPG · Decided May 1, 2025

SUMMARY

The United States District Court for the Eastern District of California adopted the magistrate judge’s findings and recommendations concerning Michael Anthony Levy’s unexhausted state habeas claims. The court dismissed the § 2254 petition, terminated the petitioner’s request for review as moot, directed the clerk to close the case, and declined to issue a certificate of appealability. Although the order’s heading refers to dismissal without prejudice, the operative order states that the petition is dismissed with prejudice.

CASE DETAILS

COURT	United States District Court for the Eastern District of California
JURISDICTION	United States District Court for the Eastern District of California
DECIDED	May 1, 2025
DOCKET	1:25-cv-0072 JLT EPG
DISPOSITION	dismissed
PROCEDURAL POSTURE	State prisoner’s petition for a writ of habeas corpus under 28 U.S.C. § 2254 was reviewed after a magistrate judge recommended dismissal for failure to exhaust state-court remedies. The district court adopted the findings and recommendations, dismissed the petition, terminated the petitioner’s request for review as moot, and declined to issue a certificate of appealability.
STANDARD OF REVIEW	De novo review of the magistrate judge’s findings and recommendations under 28 U.S.C. § 636(b)(1).
PRECEDENTIAL VALUE	Unpublished district court order; limited persuasive value and not binding precedent outside the case.
PARTIES	Michael Anthony Levy v. Raul Morales

TOPICS

- federal habeas corpus
- post-conviction relief
- appellate procedure
- standard of review

PRACTICE AREAS

federal habeas corpus

post-conviction relief

appellate procedure

QUESTIONS PRESENTED

1. Whether the district court should adopt the magistrate judge's finding that the § 2254 petition was subject to dismissal because petitioner had not exhausted his state-court remedies.
2. Whether petitioner's request for review should affect the disposition of the petition.
3. Whether to issue a certificate of appealability.

HOLDINGS

1. Because petitioner's claims were unexhausted in state court, the district court adopted the magistrate judge's recommendation and dismissed the habeas petition without reaching the merits.
2. The district court conducted the required de novo review and adopted the findings and recommendations in full.
3. The court declined to issue a certificate of appealability because petitioner failed to make a substantial showing of the denial of a constitutional right.

KEY QUOTATIONS

"the Court cannot proceed to the merits" (at 1)

"Reasonable jurists would not find the determination that Petitioner is not entitled to federal habeas corpus relief debatable, wrong, or deserving of encouragement to proceed further." (at 2)

FACTUAL BACKGROUND

Michael Anthony Levya, a state prisoner proceeding pro se and in forma pauperis, filed a petition for federal habeas corpus relief under 28 U.S.C. § 2254. The magistrate judge determined during preliminary review that Levya had not exhausted his state-court remedies and that the court could not reach the merits. Levya did not object within the prescribed period but asked the district court to review his filings again.

PROCEDURAL HISTORY

The magistrate judge conducted a preliminary review under Rule 4 of the Rules Governing Section 2254 Cases and found that petitioner had not exhausted his state remedies, recommending dismissal without prejudice. Petitioner filed no objections but requested that the district court review the filed legal materials again. After de novo review under 28 U.S.C. § 636(b)(1), the district court adopted the findings and recommendations in full, dismissed the petition with prejudice as stated in the final order, terminated the review request as moot, and closed the case.

DISPOSITION

dismissed

CASES CITED

- Wilkerson v. Wheeler, 772 F.3d 834, 838-39 (9th Cir. 2014)
- Miller-El v. Cockrell, 537 U.S. 322, 335-336 (2003)
- Slack v. McDaniel, 529 U.S. 473, 484 (2000)
- Barefoot v. Estelle, 463 U.S. 880, 893 (1983)

OPINION

(HC) Leyva v. Morales

PER CURIAM.

1 2 3 4 5 6 7

8 UNITED STATES DISTRICT COURT

9 EASTERN DISTRICT OF CALIFORNIA

10 11 MICHAEL ANTHONY LEVYA,) Case No.: 1:25-cv-0072 JLT EPG) 12 Petitioner,)

ORDER ADOPTING IN FULL THE FINDINGS

) AND RECOMMENDATIONS, DISMISSING THE

13 v.) PETITION FOR WRIT OF HABEAS CORPUS

) WITHOUT PREJUDICE, TERMINATING

14 RAUL MORALES,) PETITIONER’S REQUEST FOR REVIEW AS

) MOOT, AND DIRECTING THE CLERK OF

15 Respondent.) COURT TO CLOSE THE CASE) 16) (Docs. 7, 8)) 17 18 Michael Anthony
Levy is a state prisoner proceeding pro se and in forma pauperis with a 19 petition for writ of
habeas corpus pursuant to 28 U.S.C. § 2254. The magistrate judge performed a 20 preliminary
review of the petition pursuant to Rule 4 of the Rules Governing Section 2254 Cases, and 21
found Petitioner did not exhaust his state court remedies. (Doc. 7 at 1, 2.) Therefore, the magistrate
22 judge found “the Court cannot proceed to the merits” of the claims raised in the petition and 23
recommended dismissal without prejudice. (Id. at 2-3.) 24 The Court served the Findings and
Recommendations on Petitioner and notified him that any 25 objections were due within 30 days.
(Doc. 7.) The Court advised Petitioner that the “failure to file 26 objections within the specified
time may waive the right to appeal the District Court’s order.” (Id. at 3, 27 citing Wilkerson v.
Wheeler, 772 F.3d 834, 838-39 (9th Cir. 2014).) Petitioner did not file objections. 28 However,
Petitioner requested the Court “review all filed legal work/ paper[s] again.” (Doc. 8 at 1.) 1
According to 28 U.S.C. § 636(b)(1), this Court performed a de novo review of this case.! 2 ||
Having carefully reviewed the matter, the Court concludes the Findings and Recommendations are
3 || supported by the record and proper analysis. Petitioner does not dispute that his claims were 4
|| unexhausted before the state court. 5 In addition, the Court declines to issue a certificate of
appealability. A state prisoner seeking 6 || writ of habeas corpus has no absolute entitlement to
appeal a district court’s denial of his petition, anc 7 || an appeal is only allowed in certain
circumstances. Miller-El v. Cockrell, 537 U.S. 322, 335-336 8 || (2003). If the Court denies a

petition, it may only issue a certificate of appealability when a petitione 9 || makes a substantial showing of the denial of a constitutional right. 28 U.S.C. § 2253(c)(2). To make 10 || substantial showing, Petitioner must establish that “reasonable jurists could debate whether (or, for 11 || that matter, agree that) the petition should have been resolved in a different manner or that the issues 12 || presented were ‘adequate to deserve encouragement to proceed further.’” *Slack v. McDaniel*, 529 U.. 13 || 473, 484 (2000) (quoting *Barefoot v. Estelle*, 463 U.S. 880, 893 (1983)). In the present case, the Cou 14 || finds Petitioner did not make the required substantial showing of the denial of a constitutional right tc 15 || justify the issuance of a certificate of appealability. Reasonable jurists would not find the 16 || determination that Petitioner is not entitled to federal habeas corpus relief debatable, wrong, or 17 || deserving of encouragement to proceed further. Thus, the Court ORDERS: 18 1. The Findings and Recommendations issued on March 13, 2025 (Doc. 7) are 19 ADOPTED in full. 20 2. Petitioner’s request for review (Doc. 8) is terminated as MOOT. 21 3. The petition for writ of habeas corpus is DISMISSED with prejudice. 22 4. The Clerk of Court is directed to enter judgment and close the case. 23 5. The Court declines to issue a certificate of appealability. 24 25 IT IS SO ORDERED. 26 || Dated: _ May 1, 2025 (LAW pA LU. wan

27 TED STATES DISTRICT JUDGE

28 ||! Given the Court’s obligations under 28 U.S.C. § 636(b)(1), Petitioner’s request for review was unnecessary.