

UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF
CALIFORNIA

Morris v. Sierra County Clerks Office and Megans Law List

Morris · No. 2:24-cv-1905-JDP (P) · Decided March 4, 2025

SUMMARY

The court recommends dismissal without prejudice of Bruce Wayne Morris’s 28 U.S.C. § 2254 petition because his claims remain pending in state court and are therefore unexhausted. The court explains that exhaustion requires presentation of the claims to the California Supreme Court and a decision there. The magistrate judge also orders assignment of a district judge and advises the parties regarding objections.

CASE DETAILS

COURT	United States District Court for the Eastern District of California
WRITING FOR THE COURT	Jeremy D. Peterson
JURISDICTION	United States District Court for the Eastern District of California
DECIDED	March 4, 2025
DOCKET	2:24-cv-1905-JDP (P)
DISPOSITION	other
PROCEDURAL POSTURE	Findings and recommendations on preliminary review of a state habeas petition under Rule 4 of the Rules Governing Section 2254 Cases.
STANDARD OF REVIEW	Under Rule 4 of the Rules Governing Section 2254 Cases, the assigned judge must examine the habeas petition and order a response unless it plainly appears that the petitioner is not entitled to relief.
PRECEDENTIAL VALUE	Nonprecedential findings and recommendations of a federal magistrate judge; subject to review by the assigned district judge.
PARTIES	Bruce Wayne Morris v. Sierra County Clerks Office and Megans Law List

TOPICS

- federal habeas corpus
- state post-conviction relief
- pleadings
- civil procedure

PRACTICE AREAS

federal habeas corpus

post-conviction relief

civil procedure

QUESTIONS PRESENTED

1. Whether the section 2254 petition should be dismissed at preliminary review because petitioner had not exhausted his state-court remedies.

HOLDINGS

1. A section 2254 petition should be dismissed without prejudice when the petitioner acknowledges that the claims remain pending in state court and therefore have not been fully exhausted.

KEY QUOTATIONS

“Such exhaustion requires that he present them to the California Supreme Court and receive a decision.” (at 1)

“Under Rule 4, the judge assigned to the habeas proceeding must examine the habeas petition and order a response to the petition unless it “plainly appears” that the petitioner is not entitled to relief.” (at 1)

FACTUAL BACKGROUND

Bruce Wayne Morris, an inmate at the California Health Care Facility, sought federal habeas relief under section 2254. He acknowledged that his claims remained pending in state court. The petition filed after leave to amend was largely blank.

PROCEDURAL HISTORY

Petitioner filed a section 2254 petition. The court dismissed the first petition as vague, unexhausted, and time-barred, but granted leave to amend. Petitioner filed a response and a largely blank new petition, and the magistrate judge recommended dismissal without prejudice because petitioner acknowledged that his claims remained pending in state court.

DISPOSITION

other

CASES CITED

- Valdez v. Montgomery, 918 F.3d 687, 693 (9th Cir. 2019)
- Boyd v. Thompson, 147 F.3d 1124, 1127 (9th Cir. 1998)
- Turner v. Duncan, 158 F.3d 449, 455 (9th Cir. 1998)
- Martinez v. Ylst, 951 F.2d 1153 (9th Cir. 1991)

OPINION

(HC) Morris v. Sierra County Clerks Office

PER CURIAM.

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8 UNITED STATES DISTRICT COURT

9 FOR THE EASTERN DISTRICT OF CALIFORNIA

10 11 BRUCE WAYNE MORRIS, Case No. 2:24-cv-1905-JDP (P) 12 Petitioner,

13 v. FINDINGS AND RECOMMENDATIONS

14 SIERRA COUNTY CLERKS OFFICE

AND MEGANS LAW LIST,

15 Respondents. 16

17 18 Petitioner, an inmate at the California Health Care Facility, brings this action under 19
section 2254. ECF Nos. 11 & 12. I dismissed the first petition filed in this case after finding that
20 it was vague, unexhausted, and time-barred. ECF No. 10. I gave petitioner leave to amend, 21
however, and he has filed a response to my order, ECF No. 11, and a new petition that is largely 22
blank, ECF No. 12. I now recommend that this action be dismissed. 23 The petition is before me
for preliminary review under Rule 4 of the Rules Governing

24 Section 2254 Cases. Under Rule 4, the judge assigned to the habeas proceeding must examine
25 the habeas petition and order a response to the petition unless it “plainly appears” that the 26
petitioner is not entitled to relief. See Valdez v. Montgomery, 918 F.3d 687, 693 (9th Cir. 2019); 27
Boyd v. Thompson, 147 F.3d 1124, 1127 (9th Cir. 1998). 28 1 In his response to my order,
petitioner acknowledges that his claims remain pending in 2 || state court. ECF No. 11 at 1.
Accordingly, this action should be dismissed without prejudice so 3 | that petitioner may, if he
chooses, bring his claims in a new habeas petition once he has exhausted 4 || them completely in
state court. Such exhaustion requires that he present them to the California 5 || Supreme Court and
receive a decision. 6 Accordingly, it is hereby ORDERED that the Clerk of Court shall assign a
district judge 7 || to this action. 8 Further, it is RECOMMENDED that the petition, ECF No. 12, be
DISMISSED as 9 || unexhausted. 10 These findings and recommendations are submitted to the
United States District Judge 11 || assigned to the case, pursuant to the provisions of 28 U.S.C. §
636(b)(). Within fourteen days 12 || after being served with these findings and recommendations,
any party may file written 13 || objections with the court and serve a copy on all parties. Such a
document should be captioned 14 | “Objections to Magistrate Judge’s Findings and
Recommendations.” Any response to the 15 || objections shall be served and filed within fourteen
days after service of the objections. The 16 | parties are advised that failure to file objections
within the specified time may waive the right to 17 || appeal the District Court’s order. Turner v.
Duncan, 158 F.3d 449, 455 (9th Cir. 1998); Martinez 18 | v. Ylst, 951 F.2d 1153 (9th Cir. 1991). 19
20 IT IS SO ORDERED. 21 (q Sty - Dated: _ March 3, 2025 a———

22 JEREMY D. PETERSON

54 UNITED STATES MAGISTRATE JUDGE

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