

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

CIVIL MINUTES - GENERAL

Case No.	CV 14-8693-PA (CW)	Date	November 17, 2014
Title	Randal Ruiz v. Jeffrey Beard		

Present: The Honorable	Carla Woehrl, United States Magistrate Judge
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Gay Roberson

n/a

Deputy Clerk

Court Reporter / Recorder

Attorneys Present for Plaintiffs:

Attorneys Present for Defendants:

n/a

n/a

Proceedings: (In Chambers)

On November 10, 2014, Petitioner filed a Petition for Writ of Habeas Corpus by a Person in State Custody, in which he appears to allege five claims (although Grounds One and Three appear to pertain to procedural, rather substantive, claims). [Docket no. 1.] It further appears from the Petition that all of the claims alleged therein are currently pending before the California Supreme Court, and thus that the Petition accordingly is wholly unexhausted. [Petition at 7-8.]¹

On or before December 19, 2014, Petitioner shall file a response and show cause why the Petition should not be dismissed, without prejudice, for failure to exhaust state court remedies. See Coleman v. Thompson, 501 U.S. 722, 731, 111 S. Ct. 2546 (1991) ("This Court has long held that a state prisoner's federal habeas petition should be dismissed if the prisoner has not exhausted state remedies as to any of his federal claims."); see also Raspberry v. Garcia, 448 F.3d 1150, 1154 (9th Cir. 2006) ("Once a district court determines that a habeas petition contains only unexhausted claims, it need not

¹"Before a federal court may grant habeas relief to a state prisoner, the prisoner must exhaust his remedies in state court." O'Sullivan v. Boerckel, 526 U.S. 838, 842, 119 S. Ct. 1728 (1999); see also 28 U.S.C. § 2254(b)-(c); King v. Ryan, 564 F.3d 1133, 1138 (9th Cir. 2009). For a petitioner in California custody, this generally means that he or she must have fairly presented each claim - described both the factual and federal legal basis - in a petition to the California Supreme Court. See O'Sullivan, 526 U.S. at 845 (interpreting 28 U.S.C. § 2254(c)); Gatlin v. Madding, 189 F.3d 882, 888 (9th Cir. 1999) (applying O'Sullivan to California); see also Gray v. Netherland, 518 U.S. 152, 162-63, 116 S. Ct. 2074 (1996).

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inquire further . . . [and] may simply dismiss the habeas petition for failure to exhaust."). The court will thereafter issue further orders as appropriate.

IT IS SO ORDERED.

cc: Randal Ruiz
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