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7 UNITED STATES DISTRICT COURT
8 CENTRAL DISTRICT OF CALIFORNIA
9 WESTERN DIVISION
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11 JOSHUA SPENCER HILL,) Case No. ED CV 12-00898-DMG (VBK)
12)
13) Petitioner,) MEMORANDUM AND ORDER DISMISSING
14) v.) PETITION FOR WRIT OF HABEAS
15) WARDEN,) CORPUS
16) Respondent.)
17)

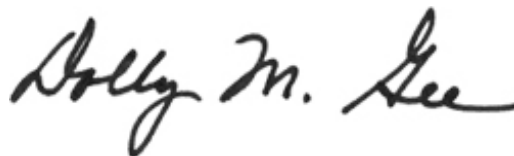
18 On June 5, 2012, Joshua Spencer Hill (hereinafter referred to as
19 "Petitioner") filed a "Petition for Writ of Habeas Corpus by a Person
20 in State Custody" in the United States District Court for the Central
21 District of California. On December 14, 2011, in Riverside County
22 Superior Court, Petitioner pled guilty to violating California Penal
23 Code § 273.5 and § 2933.5 and was sentenced to two years in state
24 prison. (See Petition at 2.)

25 It appears conclusively from the face of the Petition that state
26 remedies have not been exhausted. There is no indication in the
27 Petition whatsoever that the California Court of Appeal or California
28 Supreme Court have been given an opportunity to rule on Petitioner's
contentions. (See Petition at 3-5.)

1 A federal court will not review a state prisoner's petition for
2 writ of habeas corpus unless it appears that the prisoner has
3 exhausted available state remedies on each and every claim presented.
4 28 U.S.C. §2254(b) and (c); see O'Sullivan v. Boerckel, 526 U.S. 838,
5 842 (1999); Rose v. Lundy, 455 U.S. 509, 522 (1982). "For reasons of
6 federalism, 28 U.S.C. §2254 requires federal courts to give the states
7 an initial opportunity to correct alleged violations of its prisoners'
8 federal rights." Kellotat v. Cupp, 719 F.2d 1027, 1029 (9th Cir.
9 1983).

10 Exhaustion requires that the prisoner's contentions be fairly
11 presented to the highest court of the state. Libberton v. Ryan, 583
12 F.3d 1147, 1164 (9th Cir. 2009), cert. denied, 130 S.Ct. 3412 (2010).
13 A claim has not been fairly presented unless the prisoner has
14 described in the state court proceedings both the operative facts and
15 the federal legal theory on which his claim is based. See Anderson v.
16 Harless, 459 U.S. 4, 6 (1982); Pappageorge v. Sumner, 688 F.2d 1294
17 (9th Cir. 1982), cert. denied, 459 U.S. 1219 (1983).

18 **ACCORDINGLY, IT IS ORDERED** that the Petition be dismissed without
19 prejudice.



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21 DATED: June 19, 2012

22 _____
DOLLY M. GEE
UNITED STATES DISTRICT JUDGE

23 Presented on
24 June 8, 2012 by:

25 _____
26 /s/
VICTOR B. KENTON
27 UNITED STATES MAGISTRATE JUDGE
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