

1 A petitioner who is in state custody and wishes to challenge his conviction by a petition
2 for writ of habeas corpus must have exhausted state judicial remedies. 28 U.S.C. § 2254(b)(1).
3 The exhaustion doctrine is based on comity to the state court and gives the state court the initial
4 opportunity to correct the state's alleged constitutional deprivations. Coleman v. Thompson, 501
5 U.S. 722, 731 (1991); Rose v. Lundy, 455 U.S. 509, 518 (1982); Buffalo v. Sunn, 854 F.2d 1158,
6 1163 (9th Cir. 1988).

7 A petitioner can satisfy the exhaustion requirement by providing the highest state court
8 with a full and fair opportunity to consider each claim before presenting it to the federal court.
9 Duncan v. Henry, 513 U.S. 364, 365 (1995); Picard v. Connor, 404 U.S. 270, 276 (1971);
10 Johnson v. Zenon, 88 F.3d 828, 829 (9th Cir. 1996). A federal court will find that the highest
11 state court was given a full and fair opportunity to hear a claim if the petitioner has presented the
12 highest state court with the claim's factual and legal bases. Duncan, 513 U.S. at 365 (legal basis);
13 Keeney v. Tamayo-Reyes, 504 U.S. 1, 9 (1992) (factual basis).

14 **II. Petitioner's First Amended Petition**

15 Upon review of the petitioner's first amended petition for writ of habeas corpus (ECF No.
16 8) and available court records¹, it appears that petitioner has not presented his claim regarding his
17 civil commitment to the highest state court, the California Supreme Court. If he has not presented
18 these claims to the California Supreme Court, the petition must be dismissed without prejudice to
19 its renewal after petitioner has exhausted his claims. If petitioner has presented his claim
20 regarding his civil commitment to the California Supreme Court, petitioner must inform this court
21 that he has exhausted his state court remedies. Without knowing what claims, if any, have been
22 presented to the California Supreme Court, the court is unable to proceed to the merits of the
23 petition. See 28 U.S.C. § 2254(b)(1).

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27 ¹ Publicly available case records from the California Supreme Court, can be located at
28 <https://appellatecases.courtinfo.ca.gov/search.cfm?dist=0>.

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CONCLUSION

Accordingly, IT IS HEREBY ORDERED as follows:

1. Within thirty (30) days of the date of this order, petitioner must inform the court whether he has presented any federal constitutional claims regarding his civil commitment to the California Supreme Court. If possible, petitioner should provide the court with a copy of the petition filed in the California Supreme Court along with a copy of any ruling made by the California Supreme Court.
2. Plaintiff is warned that failure to comply with this order will result in a recommendation that this action be dismissed.

Dated: June 4, 2021



DEBORAH BARNES
UNITED STATES MAGISTRATE JUDGE

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