

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

JAIRO BRAVO PEDROZA,)
Petitioner,) No. C 11-0318 CRB (PR)
vs.) ORDER OF DISMISSAL
M. LEA, Warden, et al.,) (Docket # 2)
Respondent(s).)

Petitioner seeks a writ of habeas corpus under 28 U.S.C. § 2254 challenging a conviction and sentence from Santa Clara County Superior Court. He also moves to proceed in forma pauperis under 28 U.S.C. § 1915 (docket # 2) which, good cause shown, is granted.

Prisoners in state custody who wish to challenge collaterally in federal habeas corpus proceedings either the fact or length of their confinement are first required to exhaust state judicial remedies, either on direct appeal or through collateral proceedings, by presenting the highest state court available with a fair opportunity to rule on the merits of each and every claim they seek to raise in federal court. See 28 U.S.C. § 2254(b)-(c). Petitioner has not done so. He has not presented the Supreme Court of California with an opportunity to consider and rule on his claims. See O'Sullivan v. Boerckel, 526 U.S. 838, 845 (1999)

1 (state's highest court must be given opportunity to rule on claims even if review
2 is discretionary). The petition for a writ of habeas corpus is DISMISSED without
3 prejudice to refiling after state judicial remedies are exhausted.

4 The clerk shall enter judgment in accordance with this order and close the
5 file.

6 SO ORDERED.

7 DATED: Jan. 28, 2011


CHARLES R. BREYER
United States District Judge