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3 UNITED STATES DISTRICT COURT
4 WESTERN DISTRICT OF WASHINGTON
5 AT TACOMA

6 ANTWONE DORNELL GOOLSBY,

7 Petitioner,

8 v.

9 DOUG GILLESPIE,

10 Respondent.

No. C10-5452 BHS/KLS

ORDER DECLINING TO SERVE
PETITION AND GRANTING LEAVE TO
AMEND

11 Petitioner, Antwone Dorneel Goolsby, is a state prisoner currently incarcerated at the
12 Pierce County Jail, located in Tacoma, Washington. This matter came before the undersigned on
13 Mr. Goolsby's petition for writ of habeas corpus filed pursuant to 28 U.S.C. § 2241. Dkt. 4. In
14 his petition, Mr. Goolsby states that his liberty is being restrained by Doug Gillespie of the Las
15 Vegas Metropolitan Police Department. Mr. Goolsby alleges that he was arrested in Las Vegas
16 pursuant to a fugitive warrant issued in the State of Washington for "escape, homicide and
17 failure to register as a sex offender." *Id.*, p. 4. He claims that he is entitled to a writ of habeas
18 corpus because he was not given any legal documentation regarding the alleged charges against
19 him. *Id.*, p. 5.

20 The Court, having reviewed the petition and the balance of the record, hereby finds and

21 **ORDERS:**

22
23 The exhaustion of state court remedies is a prerequisite to the granting of a petition for
24 writ of habeas corpus. 28 U.S.C. § 2254(b)(1). If exhaustion is to be waived, it must be waived
25 explicitly by respondent. 28 U.S.C. § 2254(b)(3). A waiver of exhaustion, thus may not be
26 implied or inferred. A petitioner can satisfy the exhaustion requirement by providing the highest

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1 state court with a full and fair opportunity to consider all claims before presenting them to the
2 federal court. *Picard v. Connor*, 404 U.S. 270, 276 (1971); *Middleton v. Cupp*, 768 F.2d 1083,
3 1086 (9th Cir. 1985). Full and fair presentation of claims to the state court requires “full factual
4 development” of the claims in that forum. *Kenney v. Tamayo-Reyes*, 504 U.S. 1, 8 (1992).

5 It is not enough that all of the facts necessary to support the federal claim were before the
6 state courts, or that a somewhat similar state law claim was made. *Duncan v. Henry*, 513 U.S.
7 364, 366 (1995) (citing *Picard v. Connor*, 404 U.S. 270 (1971) and *Anderson v. Harless*, 459
8 U.S. 4 (1982)). A federal claim is “fairly and fully” presented to the state courts if the claim is
9 presented “(1) to the proper forum, (2) through the proper vehicle, and (3) by providing the
10 proper factual and legal basis for the claim.” *Insyxiengmay v. Morgan*, 403 F.3d 657, 668 (9th
11 Cir. 2005) (internal citations omitted). The petitioner “must alert the state courts to the fact that
12 he is asserting a federal claim in order to fairly and fully present the legal basis of the claim.” *Id.*
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14 The claim must be fairly presented in “each appropriate state court,” that is, at each level
15 of state review, so as to alert the state “to the federal nature of the claim,” and to give it the
16 “opportunity to pass upon and correct” alleged violations of the petitioner’s federal rights.
17 *Baldwin v. Reese*, 541 U.S. 27, 29 (2004) (citations and internal quotation marks omitted); see
18 also *Ortberg v. Moody*, 961 F.2d 135, 138 (9th Cir. 1992). The federal basis of the claim,
19 furthermore, must be made “explicit” in the state appeal or petition, “either by specifying
20 particular provisions of the federal Constitution or statutes, or by citing to federal case law.”
21 *Insyxiengmay*, 403 F.3d at 668; *Baldwin*, 541 U.S. at 33.
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23 In his proposed petition for writ of habeas corpus under 28 U.S.C. § 2241, Mr. Goolsby
24 alleges that he was arrested on in Las Vegas, Nevada on August 24, 2009 and extradicted to the
25 State of Washington. Dkt. 4, p. 4. However, Mr. Goolsby does not indicate that he has been
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