

UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

FILED

FEB 25 2026

MOLLY C. DWYER, CLERK
U.S. COURT OF APPEALS

ALFRED L. CARPENTIER,

Petitioner - Appellant,

v.

STATE OF IDAHO,

Respondent - Appellee.

No. 25-4383

D.C. No. 1:23-cv-00535-REP
District of Idaho,
Boise

ORDER

Before: CANBY and HURWITZ, Circuit Judges.

Appellant's opening brief (Docket Entry No. 6) is construed as a request for a certificate of appealability. So construed, the request denied because appellant has not shown that "jurists of reason would find it debatable whether the petition states a valid claim of the denial of a constitutional right and that jurists of reason would find it debatable whether the district court was correct in its procedural ruling." *Slack v. McDaniel*, 529 U.S. 473, 484 (2000); *see also* 28 U.S.C.

§ 2253(c)(2); *Gonzalez v. Thaler*, 565 U.S. 134, 140-41 (2012).

Any pending motions are denied as moot. -

DENIED.

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF IDAHO

ALFRED L. CARPENTIER,

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JUDGMENT

In accordance with the Memorandum Decision and Order filed on this date, IT IS ORDERED, ADJUDGED, and DECREED that the Petition for Writ of Habeas Corpus is DISMISSED with prejudice. In addition, this case is hereby ordered closed.



DATED: June 13, 2025

A handwritten signature in cursive script, reading "Raymond E. Patricco".

Honorable Raymond E. Patricco
Chief U.S. Magistrate Judge

UNITED STATES DISTRICT COURT
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**MEMORANDUM DECISION AND
ORDER**

Pending before the Court is a Petition for Writ of Habeas Corpus (and supplement) filed by Idaho state prisoner Alfred L. Carpentier. *See* Dkt. 3, 11. Respondent, the State of Idaho, has filed a Motion for Summary Dismissal, arguing that each of Petitioner's claims is noncognizable and procedurally defaulted and that Claim 1 is untimely. *See* Dkt. 18. The Motion is now ripe for adjudication.¹

The Court takes judicial notice of the records from Petitioner's state court proceedings, which have been lodged by the State. Dkt. 17; *see* Fed. R. Evid. 201(b); *Dawson v. Mahoney*, 451 F.3d 550, 551 n.1 (9th Cir. 2006).

The parties have consented to the jurisdiction of a United States Magistrate Judge to conduct all proceedings in this case in accordance with 28 U.S.C. § 636(c) and Federal

¹ In response to the Motion for Summary Dismissal, Plaintiff filed a letter asking the Court to "dismiss," or deny, the State's Motion. This is, in substance, a brief in opposition to the Motion. The State's response to Petitioner's letter is, in substance, a reply in support of its Motion for Summary Dismissal. Accordingly, briefing on the Motion is complete.

Rule of Civil Procedure 73. *See* Dkt. 9. Having carefully reviewed the record, including the state court record, the Court finds that oral argument is unnecessary. *See* D. Idaho L. Civ. R. 7.1(d).

For the reasons that follow, the Court concludes that Petitioner's claims can be liberally construed to assert violations of federal law and that, as such, the claims are cognizable. The Court also concludes, however, that all of Petitioner's claims are procedurally defaulted without excuse.² Accordingly, the Court will enter the following Order granting the State's Motion and dismissing this case with prejudice.

BACKGROUND

The facts underlying Petitioner's convictions are set forth in the state district court's dismissal of Petitioner's post-conviction petition. *See State's Lodging D-8*. The facts will not be repeated here except as necessary to explain the Court's decision.

Following a jury trial in the Canyon County, Idaho, Petitioner was convicted of lewd conduct with a minor and sexual battery of a minor. *State's Lodging A-2* at 139. He was sentenced to a unified term of 30 years in prison with 8 years fixed for the lewd conduct conviction, and a unified term of 20 years in prison with 7 years fixed for the sexual abuse conviction—with the sentences to be served concurrently.³ *Id.* at 162–63.

² Thus, the Court need not address the State's argument that Claim 1 is barred by the statute of limitations.

³ Later, in a separate case, Petitioner was convicted of felony possession of a controlled substance. He was sentenced to a unified term of five years in prison with two years fixed, to be served concurrently with his lewd conduct and sexual abuse sentences. Petitioner did not appeal this conviction, nor did he seek post-conviction relief. *State's Lodging B-1; B-2*. It appears that, in the instant action, Petitioner is *not* asserting any error with respect to the controlled substances case, but rather included this conviction in the Petition merely as background information. However, even if the instant Petition was intended to

Petitioner appealed, arguing that the trial court erred under state law by denying Petitioner's motion for a mistrial and by imposing an excessive sentence. *State's Lodging C-1*. The Idaho Court of Appeals affirmed Petitioner's convictions and sentence.⁴ *State's Lodging C-8*. The Idaho Supreme Court denied review. *State's Lodging C-12*. The remittitur issued on April 23, 2019. *State's Lodging C-13*.

Petitioner then filed a pro se state post-conviction petition challenging his lewd conduct and sexual abuse convictions. He asserted claims of new evidence and ineffective assistance of trial and direct appeal counsel. *State's Lodging D-2* at 4. Petitioner was appointed counsel, but counsel did not amend the post-conviction petition. *State's Lodging D-3; D-4; D-7*.

On November 19, 2020, the state district court dismissed the post-conviction petition. *State's Lodging D-8*. Petitioner did not file a timely appeal. *State's Lodging D-1*.

Over a year later, in July 2022, Petitioner filed a "motion to obtain court transcripts and court records." *State's Lodging E-1*. He filed this document both in the underlying criminal case and in the state post-conviction case. *Id.* The state district court denied the motion, holding that there is no right to receive transcripts or records at "public expense in 'mere anticipation of' an appeal or a collateral attack on a judgment of conviction" where the movant has not demonstrated a need for the records. *State's*

challenge Petitioner's controlled substances conviction, the Court's analysis below on procedural default applies equally to any claims brought by Petitioner with respect to that conviction.

⁴ The Idaho Court of Appeals issued an initial opinion that affirmed the trial court. *State's Lodging C-4*. It later issued a substitute opinion that did not change the result. *State's Lodging C-8; C-9*.

Lodging E-2 at 2 (citations omitted). The court's order was issued on August 11, 2022.

Id.

Ninety days later, on November 9, 2022 (mailbox rule), Petitioner appealed the order denying his motion for transcripts and records. *State's Lodging F-1*. He filed the appeal in both the underlying criminal case and the post-conviction case. *Id.* Because the Idaho Appellate Rules require an appeal to be filed within 42 days of the order being appealed, the Idaho Supreme Court dismissed Petitioner's appeals as untimely under state law. *State's Lodging F-2; F-3; F-4; F-5*.

Petitioner then filed another notice of appeal in his post-conviction case, asserting that the prosecutor committed misconduct. *State's Lodging G-1*. The Idaho Supreme Court dismissed the appeal for a similar reason as Petitioner's earlier appeal—because it was not filed within 42 days of judgment. *State's Lodging G-2; G-3; G-4*. Petitioner filed a motion to reconsider, which the Idaho Supreme Court denied. *State's Lodging G-5; G-6*.

Petitioner later filed yet another notice of appeal in his post-conviction case. *State's Lodging H-1*. The Idaho Supreme Court once again dismissed the appeal as untimely. *State's Lodging H-2; H-4*.

In November 2023, Petitioner filed the instant federal Petition for Writ of Habeas Corpus. The Petition asserted the following claims:

In Claim 1, Petitioner states that the prosecuting attorney in his case “was dismissed from her position due to evidence/witness tampering” in another case. *Pet.* at 4. Petitioner alleges that this dismissal warrants review of this case “along with others.” *Id.*...

Claim 2 asserts that Petitioner's right to appeal was violated because his "letters and motions" were returned by two courts, "indicating that paperwork was filed with wrong courts." *Id.* at 5....

Finally, Claim 3 asserts that Petitioner's right to access the courts was violated when he was not permitted to access unidentified "court documents." *Id.* at 6....

Init. Rev. Order, Dkt. 10, at 2–3.

Because Petitioner's claims were overly vague and generalized, the Court instructed Petitioner to file an amended petition that complied with Habeas Rule 2(c). That rule requires a habeas petition to "specify all the grounds for relief available to the petitioner" and "state the facts supporting each ground." *Id.* at 3.

Petitioner then filed an "Amended Petition, Partial," which added some facts. This document also appeared to withdraw Claims 2 and 3, though that is not entirely clear. Dkt. 11 at 4 ("Petitioner believes Claims 2 and 3 as presented by the courts is an attempt to distract the court from the real issue here which is the prosecutorial misconduct by his prosecutor in several cases which warrants, by proxy, the reopening of his case for review by the court"). Mindful of Petitioner's pro se status, however, the Court will address Claims 2 and 3, as well as Claim 1, in this decision.

The Court construed the "Amended Petition, Partial" as a supplement and considered the initial Petition and the supplement together as the operative petition. *Succ. Rev. Order*, Dkt. 12, at 1. The Court allowed Petitioner to proceed to the extent his claims "(1) are cognizable in a federal habeas corpus action, (2) were timely filed in this Court,

and (3) were either properly exhausted in state court or subject to a legal excuse for any failure to exhaust in a proper manner.” *Id.* at 3.

Contending that Petitioner’s claims are based on state law, the State now argues that the claims are noncognizable, meaning they cannot be heard, in a federal habeas corpus case. The State also argues that the claims are procedurally defaulted and that no legal excuse for the default exists. The Court will consider these issues in turn.

DISCUSSION

The Rules Governing Section 2254 Cases (“Habeas Rules”) authorize the Court to summarily dismiss a petition for writ of habeas corpus when “it plainly appears from the face of the petition and any attached exhibits,” as well as those records subject to judicial notice, “that the petitioner is not entitled to relief in the district court.” Habeas Rule 4. Where appropriate, a respondent may file a motion for summary dismissal, rather than an answer. *White v. Lewis*, 874 F.2d 599, 602 (9th Cir. 1989).

1. The Motion for Summary Dismissal Was Timely Filed

As an initial matter, the Court must address Petitioner’s argument that the State’s Motion for Summary Dismissal is untimely. *See* Dkt. 25.

The initial deadline for the State to file its response to the Petition was September 25, 2024. *See* Dkt. 12 at 3. However, the State sought, and obtained from the Court, an extension of time to file its response, and the Court reset the deadline to October 25, 2024. *See* Dkt. 14, 15.

The State later filed a second motion for an extension of time, asking that the deadline to respond to the Petition be extended until November 8, 2024. Dkt. 16. The

Court later granted that motion and deemed timely the State's Motion for Summary Dismissal, which was filed on November 8, 2024. Dkt. 21. Therefore, the Court rejects Petitioner's argument that the Motion is untimely.

Having concluded that the State's Motion is timely, the Court now turns to consider the substance of that Motion.

2. Liberally Construed, Petitioner's Claims Are Cognizable as Asserting Violations of Federal Law

Claims of state law violations cannot be heard on federal habeas review, which permits challenges to state court convictions based only on federal law. *See* 28 U.S.C. § 2254(a) (“[A] district court shall entertain an application for a writ of habeas corpus in behalf of a person in custody pursuant to the judgment of a State court *only on the ground that he is in custody in violation of the Constitution or laws or treaties of the United States.*”) (emphasis added); *Lewis v. Jeffers*, 497 U.S. 764, 780 (1990) (“[F]ederal habeas corpus relief does not lie for errors of state law.”); *Smith v. Idaho*, 392 F.3d 350, 357 (9th Cir. 2004) (“[E]ven if we agree with Smith that the trial court erred as a matter of Idaho law ..., Smith cannot obtain habeas relief on that basis.”).

Here, the State argues that Petitioner's claims “challenge collateral state court actions that were conducted pursuant to state law and procedures,” rather than asserting violations of federal law. Dkt. 18-1 at 6–7.

Claim 1 of the Petition asserts a broad violation of due process and cites the right to a fair trial. Dkt. 3 at 4. The State is correct that this claim does not appear to identify any particular error in Petitioner's conviction, but rather argues that the prosecutor's

misconduct in *other* cases should be a basis for habeas relief in *his* case. But, as a pro se litigant, Petitioner must be granted substantial leeway in the interpretation of his claims. Thus, the Court will liberally construe Claim 1 as a due process claim alleging that the prosecutor committed misconduct in Petitioner's case. This is a federal claim and, therefore, is cognizable.

The Court will also liberally construe Petitioner's other claims as federal claims. Claim 2 can be construed as a due process claim, and Claim 3 can be construed as an access-to-courts claim under the First and Fourteenth Amendments.

Accordingly, the Court concludes that Petitioner's claims are cognizable.

3. Petitioner's Claims Are Subject to Dismissal as Procedurally Defaulted

Even though Petitioner's claims are cognizable, they still must be dismissed. The Court agrees with the State that each of Petitioner's claims is procedurally defaulted without excuse.

A. Procedural Default Standards of Law

A habeas petitioner must exhaust remedies in the state courts before a federal court can grant relief on constitutional claims. *O'Sullivan v. Boerckel*, 526 U.S. 838, 842 (1999). To do so, the petitioner must invoke one complete round of the state's established appellate review process, fairly presenting all constitutional claims to the state courts so that those courts have a full and fair opportunity to correct alleged constitutional errors at each level of appellate review. *Id.* at 845. In a state that has the possibility of discretionary review in the highest appellate court, like Idaho, the petitioner must have presented all of his federal claims at least in a petition seeking review before that court.

Id. at 847. “Fair presentation” requires a petitioner to describe both the operative facts and the legal theories upon which the federal claim is based. *Gray v. Netherland*, 518 U.S. 152, 162–63 (1996).

Raising a claim “for the first and only time in a procedural context in which its merits will not be considered” except in rare circumstances does not constitute fair presentation. *Castille v. Peoples*, 489 U.S. 346, 351 (1989). In addition, presenting a state law claim does not properly exhaust a federal claim, even if the state and federal claims are similar. *Duncan v. Henry*, 513 U.S. 364, 365–66 (1995) (per curiam).

General references in state court to “broad constitutional principles, such as due process, equal protection, [or] the right to a fair trial,” are likewise insufficient. *See Hiivala v. Wood*, 195 F.3d 1098, 1106 (9th Cir. 1999). For proper exhaustion, a petitioner must bring his federal claim before the state court by “explicitly” citing the federal legal basis for his claim. *Lyons v. Crawford*, 232 F.3d 666, 669 (9th Cir. 2000), *as amended*, 247 F.3d 904 (9th Cir. 2001).

When a habeas petitioner has not fairly presented a constitutional claim to the highest state court, and the state court would now refuse to consider it because of the state’s procedural rules, the claim is said to be procedurally defaulted. *Gray*, 518 U.S. at 161–62. Claims are procedurally defaulted in the following situations: (1) when a petitioner has completely failed to raise a claim before the Idaho courts; (2) when a petitioner has raised a claim, but has failed to fully and fairly present it as a *federal* claim to the Idaho courts; and (3) when the Idaho courts have rejected a claim on an adequate

and independent state procedural ground. *Id.*; *Baldwin v. Reese*, 541 U.S. 27, 32 (2004); *Coleman v. Thompson*, 501 U.S. 722, 750 (1991).

To be an “adequate” state ground, a procedural rule must be one that is “clear, consistently applied, and well-established at the time of the petitioner’s purported default.” *Martinez v. Klauser*, 266 F.3d 1091, 1093 (9th Cir. 2001) (quoting *Wells v. Maass*, 28 F.3d 1005, 1010 (9th Cir. 1994)). A state procedural bar is “independent” of federal law if it does not rest on, and if it is not interwoven with, federal grounds. *Bennett v. Mueller*, 322 F.3d 573, 581 (9th Cir. 2003).

Once the state sufficiently pleads the existence of an adequate and independent state procedural bar, the burden shifts to the petitioner to establish that the rule is not adequate or is dependent on federal law. “The petitioner may satisfy this burden by asserting specific factual allegations that demonstrate the inadequacy of the state procedure, including citation to authority demonstrating inconsistent application of the rule.” *Bennett*, 322 F.3d at 586. The ultimate burden to show that the procedural rule is adequate and independent, however, remains with the state.

If a claim is procedurally defaulted, a federal district court cannot consider the merits of the claim unless the petitioner meets one of two exceptions: (1) a showing of adequate legal cause for the default and prejudice arising from the default; or (2) a fundamental miscarriage of justice, which means that a constitutional violation has probably resulted in the conviction of someone who is actually innocent. *Murray v. Carrier*, 477 U.S. 478, 488, 496 (1986); *Schlup v. Delo*, 513 U.S. 298, 329 (1995). Neither an assertion of cause and prejudice nor an assertion of actual innocence is an

independent constitutional claim. Rather, these are federal procedural arguments that, if sufficiently established by a petitioner, allow a federal court to consider the merits of an otherwise procedurally defaulted constitutional claim.

B. Petitioner's Claims Are Procedurally Defaulted Without Excuse

The most straightforward manner in which to resolve the exhaustion and procedural default status of Petitioner's federal claims is to review which claims were raised and addressed on the merits in the state court appellate proceedings.

On direct appeal from his conviction, Petitioner raised two state law claims—that the trial court erred by denying Petitioner's motion for a mistrial and that Petitioner's sentence was excessive. *State's Lodging C-1*. Petitioner did not raise any federal claims on direct appeal. Thus, this proceeding could not have fairly presented any of Petitioner's habeas claims.

Petitioner's next court proceeding was his state post-conviction case. However, he did not timely appeal the dismissal of his petition. Instead, after the time for appeal had run, Petitioner filed a motion for transcripts—in both the underlying criminal case and the post-conviction case. Ninety days after the court denied the motion for transcripts, Petitioner appealed. *State's Lodging E-2; F-1*. The Idaho Supreme Court determined that the appeals were untimely because they were not filed within 42 days of the order that was the subject of the appeal. *State's Lodging F-2; F-3; F-4; F-5*.

Twice more Petitioner filed notices of appeal. In both instances, the Idaho Supreme Court concluded that the appeals were untimely under state law. *State's Lodging G-2; G-3; G-4; H-2; H-4*.

Rule 14 of the Idaho Appellate Rules provides that any appeal must be filed “within 42 days from the date evidenced by the filing stamp of the clerk of the court on any judgment or order of the district court.” This 42-day time period for filing appeals had been well-established and consistently followed long before Petitioner’s state court appeals in this case. *See, e.g., Goodman Oil Co. v. Scotty’s Duro-Bilt Generator, Inc.*, 226 P.3d 530, 532 (Idaho 2010); *State v. Jensen*, 71 P.3d 1088, 1090–91 (Idaho Ct. App. 2003). The rule also does not depend on a question of federal law and is not interwoven with federal law.

As a result, the procedural rule on which the Idaho Supreme Court relied to dismiss Petitioner’s appeals is adequate and independent. *See Martinez*, 266 F.3d at 1093; *Bennett*, 322 F.3d at 581. Indeed, Petitioner does not argue otherwise. Therefore, Petitioner’s last three appeals could not have served to fairly present any of Petitioner’s instant habeas claims to the state courts.

For these reasons, the Court concludes that Petitioner’s claims are procedurally defaulted. Petitioner does not contend that he is excused from the default based on cause and prejudice or actual innocence. *See generally* Dkt. 25. Accordingly, Petitioner’s claims must be dismissed.

CONCLUSION

The Court liberally construes Plaintiff’s claims as asserting cognizable federal habeas claims. However, because each of those claims is procedurally defaulted, and because Petitioner has not shown a legal excuse for the default, each of Petitioner’s claims must be dismissed.

ORDER

IT IS ORDERED:

1. The State's Motion for Summary Dismissal (Dkt. 18) is GRANTED, and the Petition is DISMISSED with prejudice.
2. Petitioner's request to dismiss the State's Motion for Summary Dismissal (Dkt. 25) is DENIED.
3. The Court does not find its resolution of this habeas matter to be reasonably debatable, and a certificate of appealability will not issue. *See* 28 U.S.C. § 2253(c); Habeas Rule 11. If Petitioner wishes to appeal, he must file a timely notice of appeal with the Clerk of Court. Petitioner may seek a certificate of appealability from the Ninth Circuit by filing a request in that court.



DATED: June 13, 2025

Raymond E. Patricco

Honorable Raymond E. Patricco
Chief U.S. Magistrate Judge