

**UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF
CALIFORNIA**

Janah Dannell Ortiz v. Fresno Federal Courthouse

No. 1:25-cv-0155 JLT SKO (HC), United States District Court for the Eastern District of California (February
27, 2025)

OPINION

(HC) Ortiz v. Fresno Federal Courthouse

PER CURIAM.

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8 UNITED STATES DISTRICT COURT

9 EASTERN DISTRICT OF CALIFORNIA

10 11 JANAH DANNELL ORTIZ, Case No. 1:25-cv-0155 JLT SKO (HC) 12 Petitioner, ORDER
ADOPTING IN PART FINDINGS

AND RECOMMENDATIONS; DISMISSING

13 v. PETITION FOR WRIT OF MANDAMUS;

AND DIRECTING CLERK OF COURT TO

14 FRESNO FEDERAL COURTHOUSE, ENTER JUDGMENT, CLOSE CASE AND
PROVIDE PETITIONER WITH BLANK CIVIL

15 Respondent. RIGHTS FORMS

16 ORDER DECLINING TO ISSUE

CERTIFICATE OF APPEALABILITY

17 18 Janah Dannell Ortiz is a state pretrial detainee proceeding with a petition for writ of 19
mandamus pursuant to 28 U.S.C. § 1361. The magistrate judge screened the petition pursuant to
20 28 U.S.C. § 1915A(a), and observed the claims raised were “very difficult to decipher.” (Doc.
5 21 at 1, 2.) The magistrate judge observed that Petitioner alleged he was “the subject of a
conspiracy 22 between the Fresno County Police Department, ‘the population,’ ‘Congress
members,’ and 23 judges.” (Id. at 2.) Petitioner also asserts that Judge Wilson took retaliatory
action and denied 24 Petitioner’s request to be released on bail. (Id.) The magistrate judge found it
is clear mandamus 25 relief is unavailable based upon these allegations. (Id. at 2-3.) In addition,
the magistrate judge 26 noted that “the state proceedings are clearly ongoing,” and “the Court
should abstain from 27 interfering in state proceedings” pursuant to *Younger v. Harris*, 401 U.S.
37 (1971). (Id.) 28 Finally, the magistrate judge found reclassification of the action to a civil rights
matter was not 1 appropriate because “Petitioner does not name the proper defendants, and the
claims are not 2 amenable to conversion on their face.” (Id. at 4.) Therefore, the magistrate judge
recommended 3 the Court dismiss the action with prejudice and the Clerk of Court provide a
blank civil rights 4 form to Petitioner. (Id.) 5 On February 25, 2025, Petitioner filed a document

entitled “Points and Authorities of 6 Mandamus,” which the Court construes as objections to the Findings and Recommendations. 7 (Doc. 6.) However, Petitioner essentially restates the claims from his petition for mandate. For 8 example, Petitioner seeks federal intervention into his ongoing state criminal case, a transfer of 9 his person to Georgia, and review of his financial status. As discussed by the magistrate judge, 10 the Court is unable to grant the relief Petitioner seeks. Petitioner does not address these findings 11 of the magistrate judge. 12 According to 28 U.S.C. § 636(b)(1), this Court performed a de novo review of this case. 13 Having carefully reviewed the matter, the Court concludes the findings are supported by the 14 record and proper analysis. However, dismissal with prejudice could preclude Petitioner from 15 proceeding with a civil rights action implicating the civil rights claims encompassed in the 16 petition, despite the recommendation that the Clerk of Court provide Petitioner a civil rights form 17 to pursue such claims. Consequently, the Court finds the proper dismissal is without prejudice. 18 See *Fiorito v. Entzel*, 829 Fed. Appx. 192, 193 (9th Cir. 2020) (affirming dismissal of a petition 19 without prejudice where the claims in the petition implicated civil rights violations); see also 20 *American Trial Lawyers Assoc., New Jersey Branch v. New Jersey Supreme Court*, 409 U.S. 467, 21 469 (1973) (a dismissal on grounds of abstention “must not be with prejudice”); *Orth v. Johnson*, 22 2023 U.S. App. LEXIS 4179, at *1 (9th Cir. Feb. 21, 2023) (finding the district court erred in 23 dismissal without prejudice of a petition brought by a pretrial detainee where the state criminal 24 proceedings were ongoing and holding “the dismissal should have been without prejudice”). 25 In addition, the Court declines to issue a certificate of appealability. A prisoner seeking a 26 writ of habeas corpus has no absolute entitlement to appeal a district court’s denial of his petition, 27 and an appeal is only allowed in certain circumstances. *Miller-El v. Cockrell*, 537 U.S. 322, 335- 28 336 (2003). If the Court denies a petition, it may only issue a certificate of appealability when a 1 | petitioner makes a substantial showing of the denial of a constitutional right. 28 U.S.C. § 2 | 2253(c)(2). To make a substantial showing, the petitioner must establish that “reasonable jurists 3 | could debate whether (or, for that matter, agree that) the petition should have been resolved in a 4 | different manner or that the issues presented were ‘adequate to deserve encouragement to proceed 5 | further.’” *Slack v. McDaniel*, 529 U.S. 473, 484 (2000) (quoting *Barefoot v. Estelle*, 463 U.S. 6 | 880, 893 (1983)). In the present case, the Court finds that Petitioner did not make the required 7 | substantial showing of the denial of a constitutional right to justify the issuance of a certificate of 8 | appealability. Reasonable jurists would not find the Court’s determination that Petitioner is not 9 | entitled to federal habeas corpus relief debatable, wrong, or deserving of encouragement to 10 || proceed further. Thus, the Court ORDERS: 11 1. The Findings and Recommendations issued on February 11, 2025 (Doc. 5) are 12 ADOPTED in part. 13 2. The petition for writ of mandate is DISMISSED without prejudice. 14 3. The Clerk of Court is directed to mail Petitioner the Court’s forms for filing a civil 15 rights action. 16 4. The Clerk of Court is directed to enter judgment and close the case. 17 5. The Court declines to issue a certificate of appealability. 18 This order terminates the action in its entirety. 19 20 IT IS SO ORDERED. 21 | Dated: _February 26, 2025

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TED STATES DISTRICT JUDGE

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