

UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF
CALIFORNIA

Cunningham v. Warden

Cunningham · No. 1:25-cv-00180-KES-SKO (HC) · Decided April 22, 2025

SUMMARY

The United States District Court for the Eastern District of California vacated its prior Findings and Recommendation construing a subsequently filed habeas petition as a motion to amend. The court directed the Clerk to open a new 28 U.S.C. § 2255 case using that petition, transfer it to the Eastern District of Washington, and reset the response deadline to fourteen days from service of the order.

CASE DETAILS

COURT	United States District Court for the Eastern District of California
WRITING FOR THE COURT	Sheila K. Oberto
JURISDICTION	United States District Court for the Eastern District of California
DECIDED	April 22, 2025
DOCKET	1:25-cv-00180-KES-SKO (HC)
DISPOSITION	vacated
PROCEDURAL POSTURE	Petitioner filed a second federal habeas petition while his first petition under 28 U.S.C. § 2241 was pending. The court had construed the second petition as a motion to amend and recommended denying it. After petitioner objected, explaining that the second petition was misfiled and intended for the Eastern District of Washington, the court vacated the recommendation, directed the clerk to open a new § 2255 case using the second petition, and ordered its transfer to the Eastern District of Washington.
PRECEDENTIAL VALUE	Unknown
PARTIES	Aaron Joseph Cunningham v. Warden, FCI Mendota

TOPICS

- federal habeas corpus
- post-conviction relief
- pleadings
- motion to amend
- venue

PRACTICE AREAS

QUESTIONS PRESENTED

1. Whether the second habeas petition filed while the first petition was pending should be treated as a motion to amend the first petition.
2. Whether, in light of petitioner's representation that the second petition was misfiled and intended to challenge his conviction in the Eastern District of Washington, the court should vacate its prior recommendation, open a separate § 2255 case, and transfer the petition.

HOLDINGS

1. A second habeas petition filed while another habeas petition is pending is generally construed as a motion to amend the first petition; however, where the petitioner states that the second petition was misfiled, the court may disregard it in the existing case and process it separately.
2. The April 9, 2025 Findings and Recommendation was vacated; the April 9 petition was to be disregarded in the existing case, used to open a new § 2255 case, and transferred to the Eastern District of Washington.

KEY QUOTATIONS

“A second petition filed while another one is pending is generally construed as a motion to amend the first petition.” (at 1)

FACTUAL BACKGROUND

Petitioner is a federal prisoner proceeding pro se and in forma pauperis. He was incarcerated at FCI Mendota, California, and filed an initial § 2241 habeas petition in the Eastern District of California. He later filed a second habeas petition in that court but stated that it had been misfiled and was intended for the Eastern District of Washington, the court of conviction.

PROCEDURAL HISTORY

Petitioner filed a § 2241 petition in the Eastern District of California on January 24, 2025. The case was transferred to the Fresno Division because petitioner was incarcerated at FCI Mendota. After the court ordered a response to the first petition, petitioner filed a second habeas petition, which the court construed as a motion to amend and recommended denying. Petitioner objected, stating that he did not intend to amend the first petition and that the second petition belonged in the Eastern District of Washington, the court of conviction. The court vacated the prior Findings and Recommendation, directed the clerk to open a new § 2255 case and transfer it, and reset the response deadline in the original case.

DISPOSITION

vacated

CASES CITED

- Goodrum v. Busby, 824 F.3d 1188, 1192 (9th Cir. 2016)
- Woods v. Carey, 525 F.3d 886, 890 (9th Cir. 2008)

OPINION

1 2 3 4 5 6 7 8 UNITED STATES DISTRICT COURT 9 FOR THE EASTERN DISTRICT OF
CALIFORNIA 10 11 AARON JOSEPH CUNNINGHAM, No. 1:25-cv-00180-KES-SKO (HC) 12
Petitioner, ORDER VACATING FINDINGS AND RECOMMENDATION 13 (Doc. 11) 14 v.
ORDER DIRECTING CLERK OF COURT TO DISREGARD PETITION FILED IN THIS 15
CASE, OPEN A NEW § 2255 CASE UTILIZING THE DOCUMENT, AND 16 WARDEN, FCI
MENDOTA, TRANSFER CASE TO THE EASTERN DISTRICT OF WASHINGTON 17
Respondent.

(Doc. 9) 18 ORDER RESETTING BRIEFING SCHEDULE 19 [FOURTEEN-DAY DEADLINE]
20 21 Petitioner is a federal prisoner proceeding pro se and in forma pauperis with a petition for 22
writ of habeas corpus pursuant to 28 U.S.C. § 2241.

On January 24, 2025, Petitioner filed a 23 habeas petition in the Sacramento Division of the
Eastern District of California. (Doc. 1.) Because 24 Petitioner is incarcerated in the Federal
Correctional Institution in Mendota, California, and the 25 institution lies within the Fresno
Division of the Eastern District, the case was transferred to this 26 Court on February 11, 2025.

(Doc. 4.) 27 On February 13, 2025, the Court issued an order directing Respondent to file a
response to 28 the petition. (Doc. 7.) Thereafter, on April 7, 2025, Petitioner filed a subsequent
petition for writ 1 of habeas corpus in this Court. (Doc. 9.) A second petition filed while another
one is pending is 2 generally construed as a motion to amend the first petition.

Goodrum v. Busby, 824 F.3d 1188, 3 1192 (9th Cir. 2016); see also Woods v. Carey, 525 F.3d 886,
890 (9th Cir. 2008). Accordingly, 4 on April 9, 2025, the Court construed Petitioner's petition as a
motion to amend and 5 recommended denying said motion. (Doc. 11.) 6 On April 16, 2025,
Petitioner filed objections to the Findings and Recommendation. (Doc. 7 12.)

Petitioner states he did not intend to amend the petition, and misfiled the petition in this 8 Court.
He states he should have filed the petition in the Eastern District of Washington, as that is 9 the
court of conviction. 10 Accordingly, IT IS HEREBY ORDERED: 11 1) The Findings and
Recommendation issued on April 9, 2025, (Doc. 11), is VACATED; 12 2) The Clerk of Court is
directed to disregard the petition of April 9, 2025, (Doc.

9) in 13 this case; open a new § 2255 case using the petition, and transfer the petition to the 14
Eastern District of Washington; and 15 3) The deadline to file a response to the petition is set
fourteen (14) days from the date of 16 service of this order. 17 IT IS SO ORDERED. 18 19 Dated:

April 21, 2025 /s/ Sheila K. Oberto. UNITED STATES MAGISTRATE JUDGE 20 21 22 23 24 25
26 27 28

Retrieved from lawtools.ai · <https://lawtools.ai/cases/federal/united-states-district-court-for-the-eastern-district-of-cal/2025/cunningham-v-warden-3ssisms0>