

UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF
CALIFORNIA

Kevin Duane Hickman v. State of California, et al.

Hickman · No. 2:24-cv-02460-DAD-DMC (HC) · Decided September 16, 2025

SUMMARY

The United States District Court for the Eastern District of California adopted the magistrate judge’s findings and recommendations and summarily dismissed Kevin Duane Hickman’s 28 U.S.C. § 2254 habeas petition as frivolous and failing to state a cognizable claim for federal habeas relief. The court also denied petitioner’s requests for a bill exchange instrument and to discharge bond as moot, declined to issue a certificate of appealability, and ordered the case closed.

OPINION

1 2 3 4 5 6 7 8 UNITED STATES DISTRICT COURT 9 FOR THE EASTERN DISTRICT OF
CALIFORNIA 10 11 KEVIN DUANE HICKMAN, No. 2:24-cv-02460-DAD-DMC (HC) 12
Petitioner, ORDER ADOPTING FINDINGS AND RECOMMENDATIONS AND DISMISSING
13 v. PETITION AS FRIVOLOUS AND FAILING TO STATE A COGNIZABLE CLAIM FOR
14 STATE OF CALIFORNIA, et al., FEDERAL HABEAS RELIEF 15 Respondents.

(Doc. Nos. 12, 13, 18) 16 17 18 Petitioner Kevin Duane Hickman is a state prisoner proceeding
pro se and in forma 19 pauperis with a petition for writ of habeas corpus pursuant to 28 U.S.C. §
2254. The matter was 20 referred to a United States Magistrate Judge pursuant to 28 U.S.C. §
636(b)(1)(B) and Local Rule 21 302. 22 On August 7, 2025, the assigned magistrate judge issued
findings and recommendations 23 recommending that the pending petition be summarily
dismissed and that petitioner’s other 24 pending requests be denied as moot.

(Doc. No. 18.) Specifically, the magistrate judge concluded 25 that petitioner’s allegations
regarding his “Sovereign Status” and related assertions failed to 26 present any cognizable
challenge to his underlying state court criminal conviction and were 27 frivolous. (Id. at 2–3.)

In addition, the magistrate judge observed that even if petitioner was 28 //// 1 attempting to state a
civil rights claim under 42 U.S.C. § 1983, his allegations would fail to state 2 any cognizable
claim. (Id. at 3.) 3 The pending findings and recommendations were served on the parties and
contained 4 notice that any objections thereto were to be filed within fourteen (14) days after
service.

(Id. at 5 3.) On August 19, 2025, petitioner filed objections to the pending findings and
recommendations. 6 (Doc. No. 19.) In his three-page objection, with 119 pages of attachments,

petitioner suggests 7 that in his underlying state court criminal prosecution the district attorney failed to answer 8 petitioner's "conditional acceptance for value 'proof of claims'" and that petitioner was therefore 9 entitled to entry of default.

(Id. at 1–3.) Just as with the allegations of the pending habeas 10 petition, the arguments advanced by petitioner in his objections are frivolous. Those objections 11 certainly provide no basis upon which to call into question or reject the pending findings and 12 recommendations. 13 Having concluded that the pending petition must be dismissed, the court also declines to 14 issue a certificate of appealability.

A petitioner seeking writ of habeas corpus has no absolute 15 right to appeal; he may appeal only in limited circumstances. See 28 U.S.C. § 2253; *Miller-El v. 16 Cockrell*, 537 U.S. 322, 335-36 (2003). If a court denies a petitioner's petition, the court may only 17 issue a certificate of appealability when a petitioner makes a substantial showing of the denial of 18 a constitutional right.

28 U.S.C. § 2253(c)(2). Where, as here, the court denies habeas relief on 19 procedural grounds without reaching the underlying constitutional claims, the court should issue a 20 certificate of appealability "if jurists of reason would find it debatable whether the petition states 21 a valid claim of the denial of a constitutional right and that jurists of reason would find it 22 debatable whether the district court was correct in its procedural ruling." *Slack v. McDaniel*, 529 23 U.S. 473, 484 (2000).

In the present case, the court finds that reasonable jurists would not find 24 the court's determination that the pending petition must be dismissed to be debatable or wrong. 25 Thus, the court declines to issue a certificate of appealability. 26 In accordance with the provisions of 28 U.S.C. § 636(b)(1)(C), this court has conducted a 27 de novo review of the case.

Having carefully reviewed the entire file, including petitioner's 28 // 1 | objections, the court concludes that the findings and recommendations are supported by the 2 | record and by proper analysis. 3 Accordingly: 4 1.

The findings and recommendations issued on August 7, 2025 (Doc. No. 18) are 5 adopted in full; 6 2. Petitioner's petition for a writ of habeas corpus is summarily dismissed; 7 3. Petitioner's requests for a bill exchange instrument and to discharge bond (Doc. 8 Nos. 12, 13) are denied as having been rendered moot by this order of dismissal; 9 and 10 4.

The Clerk of the Court is directed to close this case. IT IS SO ORDERED. | pated: _ September 15, 2025 Da A. 2, ye 13 DALE A. DROZD 4 UNITED STATES DISTRICT JUDGE 15 16 17 18 19 20 21 22 23 24 25 26 27 28

