

UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF
CALIFORNIA

James Carl Kelly v. Governor Gavin Newsom, et al.

Kelly v. Newsom · No. 1:25-cv-0204 JLT SKO (HC) · Decided April 29, 2025

SUMMARY

The U.S. District Court for the Eastern District of California adopted the magistrate judge’s findings and recommendations and dismissed James Carl Kelly’s § 2254 habeas petition with prejudice. The court held that Kelly’s allegations concerning denial of reasonable accommodations for law-library use were civil-rights claims not cognizable in habeas, directed the Clerk to provide § 1983 forms and close the case, and declined to issue a certificate of appealability.

OPINION

1 2 3 4 5 6 7 8 UNITED STATES DISTRICT COURT 9 EASTERN DISTRICT OF
CALIFORNIA 10 11 JAMES CARL KELLY, Case No. 1:25-cv-0204 JLT SKO (HC) 12
Petitioner, ORDER ADOPTING FINDINGS AND RECOMMENDATIONS, DISMISSING 13 v.
PETITION FOR WRIT OF HABEAS CORPUS, DIRECTING CLERK OF COURT 14 TO MAIL
PETITIONER A BLANK CIVIL GOVERNOR GAVIN NEWSOM, et al., RIGHTS FORMS,
AND DIRECTING CLERK 15 OF COURT TO ENTER JUDGMENT AND Respondents.

CLOSE CASE 16 (Doc. 6) 17 ORDER DECLINING TO ISSUE 18 CERTIFICATE OF
APPEALABILITY 19 James Carl Kelly is a state prisoner proceeding pro se and in forma
pauperis with a 20 petition for writ of habeas corpus pursuant to 28 U.S.C. § 2254.

The magistrate judge performed 21 a preliminary review of the petition pursuant to Rule 4 of the
Rules Governing Section 2254 22 Cases, and found Petitioner “complains that his reasonable
accommodation requests for law 23 library use were wrongfully denied.” (Doc. 6 at 2.)

The magistrate judge found that “Petitioner 24 does not challenge his conviction,” and his “civil
rights claims are not cognizable in a federal 25 habeas action.” (Id.) The magistrate judge
determined “Petitioner must seek relief for his 26 complaints by way of a civil rights action.” (Id.)

The magistrate judge recommended the Court 27 dismiss the petition and provide Petitioner with a
civil rights complaint form. (Id. at 3.) 28 The Court served the Findings and Recommendations on
Petitioner and notified him that 1 any objections were due within 21 days. (Doc. 6.)

The Court advised him that the “failure to file 2 objections within the specified time may result in
the waiver of rights on appeal.” (Id. at 3, citing 3 Wilkerson v. Wheeler, 772 F.3d 834, 838-39 (9th

Cir. 2014).) Petitioner requested an extension of 4 time, and the magistrate judge granted an additional 30 days to and including April 13, 2025, to 5 file objections.

(Docs. 9, 10.) Petitioner did not file objections, and the time to do so has passed. 6 According to 28 U.S.C. § 636(b)(1)(C), this Court performed a de novo review of this 7 case. Having carefully reviewed the matter, the Court concludes the Findings and 8 Recommendations are supported by the record and proper analysis. 9 In addition, the Court declines to issue a certificate of appealability.

A state prisoner 10 seeking a writ of habeas corpus has no absolute entitlement to appeal a district court's denial of 11 his petition, and an appeal is only allowed in certain circumstances. *Miller-El v. Cockrell*, 537 12 U.S. 322, 335-336 (2003). If the Court denies a petition, it may only issue a certificate of 13 appealability when a petitioner makes a substantial showing of the denial of a constitutional right.

14 28 U.S.C. § 2253(c)(2). To make a substantial showing, Petitioner must establish that 15 "reasonable jurists could debate whether (or, for that matter, agree that) the petition should have 16 been resolved in a different manner or that the issues presented were 'adequate to deserve 17 encouragement to proceed further.'" *Slack v. McDaniel*, 529 U.S. 473, 484 (2000) (quoting 18 *Barefoot v. Estelle*, 463 U.S. 880, 893 (1983)).

In the present case, the Court finds Petitioner did 19 not make the required substantial showing of the denial of a constitutional right to justify the 20 issuance of a certificate of appealability. Reasonable jurists would not find the determination that 21 Petitioner is not entitled to federal habeas corpus relief debatable, wrong, or deserving of 22 encouragement to proceed further.

Thus, the Court ORDERS: 23 1. The Findings and Recommendations issued on February 20, 2025 (Doc. 6) are 24 ADOPTED in full. 25 2. The petition for writ of habeas corpus is DISMISSED with prejudice. 26 3. The Clerk of Court is directed to mail Petitioner blank forms for filing a § 1983 27 civil rights action. 28 4.

The Clerk of Court is directed to enter judgment and close the case. 1 5. The Court declines to issue a certificate of appealability. 2 This order terminates the action in its entirety. 3 4 IT IS SO ORDERED. 5 Dated: _ April 29, 2025 Cerin | Tower TED STATES DISTRICT JUDGE 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25 26 27 28