

UNITED STATES DISTRICT COURT FOR THE CENTRAL DISTRICT OF
CALIFORNIA

Juan Evangelista Castro v. Warden Bryan Birkholz

Castro · No. 2:24-cv-04910-AB-KES · Decided March 21, 2025

SUMMARY

The United States District Court for the Central District of California accepted the magistrate judge’s report and recommendation after conducting de novo review of the portions subject to objections. The court granted the respondent’s motion to dismiss the § 2241 petition with prejudice and granted the petitioner’s motion to expedite in part and denied it in part.

CASE DETAILS

COURT	United States District Court for the Central District of California
WRITING FOR THE COURT	Andre Birotte Jr.
JURISDICTION	United States District Court for the Central District of California
DECIDED	March 21, 2025
DOCKET	2:24-cv-04910-AB-KES
DISPOSITION	dismissed
PROCEDURAL POSTURE	Federal prisoner brought a petition for a writ of habeas corpus under 28 U.S.C. § 2241. The district court reviewed a magistrate judge's Report and Recommendation de novo as to the portions objected to and entered an order accepting the recommendation.
STANDARD OF REVIEW	De novo review of portions of the Report and Recommendation to which objections were made, pursuant to 28 U.S.C. § 636.
PRECEDENTIAL VALUE	Unpublished federal district court order; precedential status is unknown from the opinion.
PARTIES	Juan Evangelista Castro v. Bryan Birkholz, Warden

TOPICS

- federal habeas corpus
- motions to dismiss
- appellate procedure
- standard of review
- post-conviction relief

PRACTICE AREAS

- federal habeas corpus
- civil procedure
- appellate procedure

QUESTIONS PRESENTED

1. Whether the district court should accept the magistrate judge's Report and Recommendation after conducting de novo review of the objected-to portions.
2. Whether Respondent's motion to dismiss the § 2241 petition with prejudice should be granted.
3. Whether Petitioner's motion to expedite should be granted.

HOLDINGS

1. The district court accepted the magistrate judge's report, findings, and recommendations after reviewing the record and conducting de novo review of the portions to which objections were made.
2. Respondent's motion to dismiss the Petition with prejudice was granted.
3. Petitioner's motion to expedite was granted in part and denied in part.
4. A federal prisoner proceeding under § 2241 generally is not required to obtain a certificate of appealability to appeal to the Ninth Circuit unless the petition is merely a disguised § 2255 petition.

KEY QUOTATIONS

“is merely a ‘disguised’ § 2255 petition” (at 1)

FACTUAL BACKGROUND

The opinion identifies Juan Evangelista Castro as a federal prisoner who filed a petition under 28 U.S.C. § 2241. The district court considered the petition, the parties' filings, the magistrate judge's Report and Recommendation, and objections to that recommendation. The opinion does not provide the underlying factual basis for the habeas petition.

PROCEDURAL HISTORY

Petitioner filed a § 2241 petition. Respondent moved to dismiss the petition with prejudice, and a magistrate judge issued a Report and Recommendation. After reviewing the petition, the record, the Report and Recommendation, and Petitioner's objections, the district court accepted the magistrate judge's report, findings, and recommendations, granted the motion to dismiss with prejudice, and granted in part and denied in part Petitioner's motion to expedite.

DISPOSITION

dismissed

CASES CITED

- Harrison v. Ollison, 519 F.3d 952, 958 (9th Cir. 2008)
- Tomlinson v. Caraway, No. 14-cv-020094-VBF-KK, 2014 U.S. Dist. LEXIS 131448, at *2, 2014 WL 4656432, at *1 (C.D. Cal. Sept. 16, 2014)

OPINION

Juan Evangelista Castro v. Warden Bryan Birkholz

PER CURIAM.

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8 UNITED STATES DISTRICT COURT

9 CENTRAL DISTRICT OF CALIFORNIA

10 11 JUAN EVANGELISTA CASTRO, Case No. 2:24-cv-04910-AB-KES 12 Petitioner,

ORDER ACCEPTING REPORT AND

13 v. RECOMMENDATION OF U.S.

14 BRYAN BIRKHOLZ, Warden, MAGISTRATE JUDGE

15 Respondent. 16

17 18 Pursuant to 28 U.S.C. § 636, the Court has reviewed the Petition (Dkt. 1), the 19 other records on file herein, and the Report and Recommendation of the United 20 States Magistrate Judge (Dkt. 23). Further, the Court has engaged in a de novo 21 review of those portions of the Report and Recommendation to which objections 22 (Dkt. 25, 26) have been made. The Court accepts the report, findings, and 23 recommendations of the Magistrate Judge. 24 IT IS THEREFORE ORDERED that Respondent's motion to dismiss the 25 Petition with prejudice (Dkt. 14) is GRANTED and Petitioner's Motion to Expedite 26 (Dkt. 22) is GRANTED IN PART and DENIED IN PART. 27 // 28 1 As a federal prisoner proceeding under 28 U.S.C. § 2241, Petitioner is not 2 | required to obtain a certificate of appealability ("COA") in order to appeal to the 3 | United States Court of Appeals for the Ninth Circuit in this case. See Harrison v. 4 | Ollison, 519 F.3d 952, 958 (9th Cir. 2008) (holding that the plain language of 28 5 | U.S.C. § 2253(c)(1) does not require federal prisoners bringing § 2241 petitions to 6 | obtain a COA in order to appeal, unless the § 2241 petition "is merely a 'disguised' 7 | § 2255 petition"); see e.g., Tomlinson v. Caraway, No. 14-cv-020094-VBF-KK, 8 | 2014 US. Dist. LEXIS 131448 at *2, 2014 WL 4656432 at *1 (C.D. Cal. Sept. 16, 9 | 2014) (adopting report and recommendation and noting that petitioner in federal 10 | custody was not required to obtain a COA to appeal the denial of his § 2241 11 | petition). 12 13 | DATED: March 21, 2025 de 14 ANDRE BIROTTE JR.

5 UNITED STATES DISTRICT JUDGE

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