

UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF
CALIFORNIA

Raghvendra Singh v. People of California

No. 2:23-cv-2423 TLN AC P · No. No. 2:23-cv-2423 TLN AC P · Decided August 21, 2025

SUMMARY

The United States District Court for the Eastern District of California recommends dismissing without prejudice Raghvendra Singh’s 28 U.S.C. § 2254 habeas petition. The court concludes that Younger abstention applies to claims challenging the conviction while the state proceedings were pending, and that claims concerning California time credits are state-law claims that are also apparently unexhausted. The court grants the substitution of Kathleen N. Ratliff, the warden at California Health Care Facility, as respondent.

CASE DETAILS

COURT	United States District Court for the Eastern District of California
WRITING FOR THE COURT	Allison Claire
JURISDICTION	United States District Court for the Eastern District of California
DECIDED	August 21, 2025
DOCKET	No. 2:23-cv-2423 TLN AC P
DISPOSITION	dismissed
PROCEDURAL POSTURE	Petitioner sought federal habeas relief under 28 U.S.C. § 2254. Respondent moved to dismiss. The magistrate judge recommended granting the motion and dismissing the petition without prejudice, while ordering substitution of the warden as respondent.
STANDARD OF REVIEW	The court applied the Younger abstention requirements, the federal habeas cognizability limitation under 28 U.S.C. § 2254(a), and the AEDPA exhaustion requirement under 28 U.S.C. § 2254(b).
PRECEDENTIAL VALUE	nonprecedential
PARTIES	Raghvendra Singh v. People of California, Kathleen N. Ratliff, substituted respondent

TOPICS

- federal habeas corpus
- state post-conviction relief
- comity
- federalism
- civil procedure

PRACTICE AREAS

federal habeas corpus

state post-conviction relief

constitutional law

civil procedure

QUESTIONS PRESENTED

1. Whether federal habeas review should be abstained from under *Younger* because petitioner's direct state criminal proceedings were pending when he filed the federal petition.
2. Whether claims challenging the calculation of California custody credits are cognizable in federal habeas.
3. Whether Claims One and Five were unexhausted because petitioner had not presented his credit claims fairly to California's highest court.
4. Whether respondent's request to substitute Kathleen N. Ratliff, the warden at California Health Care Facility, should be granted.

HOLDINGS

1. *Younger* abstention is warranted where all four requirements are met: an ongoing state judicial proceeding, an important state interest, an adequate opportunity to raise constitutional challenges, and requested relief that would enjoin or have the practical effect of enjoining the state proceeding. Because petitioner's direct appeal was pending when the federal petition was filed, all four criteria were satisfied, and no extraordinary exception was shown.
2. Claims alleging miscalculation of California custody or class credits under California law are not cognizable in federal habeas because federal habeas relief is available only for custody violating the Constitution, laws, or treaties of the United States.
3. Claims One and Five should be dismissed as unexhausted because petitioner did not provide California's highest court a full and fair opportunity to consider his custody-credit claims before seeking federal habeas relief.
4. Kathleen N. Ratliff, the warden at California Health Care Facility, should be substituted as respondent, and the docket should be updated accordingly.

KEY QUOTATIONS

"Younger abstention is a jurisprudential doctrine rooted in overlapping principles of equity, comity, and federalism." (Discussion, section II.C.i)

"A petitioner satisfies the exhaustion requirement by providing the state's highest court with a full and fair opportunity to consider his claims before presenting them to the federal court." (Discussion, section II.C.iii)

"For the foregoing reasons, the requirements for Younger abstention are satisfied with respect to Claims Two, Three, Four, and Six and those claims should be dismissed without prejudice." (Conclusion)

FACTUAL BACKGROUND

On July 24, 2023, petitioner was convicted of filing a false or forged instrument in Sacramento County Superior Court and received a determinate three-year sentence. His direct appeal was pending when he filed the federal habeas petition on October 16, 2023. The petition raised claims concerning work and class credits, the criminality of the charged conduct, health-based relief, sufficiency of the evidence, and reduction of the charges.

PROCEDURAL HISTORY

Petitioner was convicted in Sacramento County Superior Court and sentenced to a determinate three-year term. He appealed, and the California Court of Appeal affirmed; the California Supreme Court denied review on September 11, 2024. He filed the federal habeas petition on October 16, 2023, while his direct appeal was still pending. The magistrate judge recommended dismissal of Claims Two, Three, Four, and Six under *Younger* abstention, and dismissal of Claims One and Five because they presented noncognizable state-law claims and appeared unexhausted.

DISPOSITION

dismissed

CASES CITED

- *Younger v. Harris*, 401 U.S. 37 (1971)
- *Arevalo v. Hennessy*, 882 F.3d 763, 765 (9th Cir. 2018)
- *San Jose Silicon Valley Chamber of Com. Pol. Action Comm. v. City of San Jose*, 546 F.3d 1087, 1091-92 (9th Cir. 2008)
- *ReadyLink Healthcare, Inc. v. State Comp. Ins. Fund*, 754 F.3d 754, 758 (9th Cir. 2014)
- *AmerisourceBergen Corp. v. Roden*, 495 F.3d 1143, 1149 (9th Cir. 2007)
- *Beltran v. State of California*, 871 F.2d 777, 782 (9th Cir. 1988)
- *Kitchens v. Bowen*, 825 F.2d 1337, 1341 (9th Cir. 1987)
- *Fresh Int'l Corp. v. Agric. Lab. Rels. Bd.*, 805 F.2d 1353, 1358 (9th Cir. 1986)
- *Kelly v. Robinson*, 479 U.S. 36, 49 (1986)
- *Commc'ns Telesystems Int'l v. Cal. Pub. Util. Comm'n*, 196 F.3d 1011, 1020 (9th Cir. 1999)
- *Moore v. Sims*, 442 U.S. 415, 426 (1979)
- *Baffert v. Cal. Horse Racing Bd.*, 332 F.3d 613, 621 (9th Cir. 2003)
- *Phillips v. Neuschmid*, No. 2:19-cv-3225 RGK AFM, 2019 WL 6312573, at *2, 2019 U.S. Dist. LEXIS 204615, at *5 (C.D. Cal. Oct. 18, 2019)
- *Edelbacher v. Calderon*, 160 F.3d 582, 585 (9th Cir. 1998)
- *Middlesex Cnty. Ethics Comm. v. Garden State Bar Ass'n*, 457 U.S. 423, 435 (1982)
- *Perez v. Ledesma*, 401 U.S. 82, 85 (1971)
- *Honeycutt v. Lowery*, No. 3:14-cv-0046 RCJ VPC, 2014 WL 3784100, at *1, 2014 U.S. Dist. LEXIS 104925, at *2 (D. Nev. July 31, 2014)
- *Estelle v. McGuire*, 502 U.S. 62, 67-68 (1991)

- Middleton v. Cupp, 768 F.2d 1083, 1085-86 (9th Cir. 1985)
- Lewis v. Jeffers, 497 U.S. 764, 780 (1990)
- Kitchen v. Jaime, No. 18-cv-6514 JEM, 2021 WL 597874, at *7-8, 2021 U.S. Dist. LEXIS 28588, at *17-18 (C.D. Cal. Feb. 16, 2021)
- Grandberry v. Soto, No. 15-cv-7435 DMC JC, 2016 WL 8732426, at *4, 2016 U.S. Dist. LEXIS 185813, at *7-9 (C.D. Cal. June 15, 2016)
- McClellan v. Valenzuela, No. 1:13-cv-1602 LJO SKO, 2016 WL 7374580, at *10, 2016 U.S. Dist. LEXIS 175340, at *24-25 (E.D. Cal. Dec. 19, 2016)
- Picard v. Connor, 404 U.S. 270, 276 (1971)
- Houston v. Lack, 487 U.S. 266, 276 (1988)
- Martinez v. Ylst, 951 F.2d 1153 (9th Cir. 1991)

OPINION

1 2 3 4 5 6 7 8 UNITED STATES DISTRICT COURT 9 FOR THE EASTERN DISTRICT OF
CALIFORNIA 10 11 RAGHVENDRA SINGH, No. 2:23-cv-2423 TLN AC P 12 Petitioner, 13 v.
ORDER AND FINDINGS AND RECOMMENDATIONS 14 PEOPLE OF CALIFORNIA, 15
Respondent. 16 17 Petitioner, a county prisoner proceeding without counsel, has filed an
application for a 18 writ of habeas corpus pursuant to 28 U.S.C. § 2254.

The case is before the court on respondent's 19 motion to dismiss, ECF No. 16. 20 I. Background
21 A. State Trial Proceedings 22 On July 24, 2023, petitioner was convicted of filing a false or
forged instrument in 23 Sacramento County Superior Court Case No. 23FE000947 and was
sentenced to a determinate 24 three-year sentence. ECF No. 1 at 1; ECF No. 15-1. 25 B. State
Post-Conviction Proceedings 26 Petitioner appealed his conviction to the California Third District
Court of Appeal, which 27 affirmed judgment.

ECF No. 15-2. Petitioner filed a petition for review in the California 28 Supreme Court (ECF No.
15-3), which was denied on September 11, 2024 (ECF No. 15-4). He 1 did not petition for writ of
certiorari in the United States Supreme Court. ECF No. 1 at 2. 2 C. Federal Proceedings 3
Petitioner filed the instant petition on October 16, 2023,1 raising six grounds for relief.

4 ECF No. 1. He alleges that he was denied work credit (Claim One); the charged conduct was not
5 a crime (Claim Two); his poor health requires dismissal or an alternative sentence (Claim
Three); 6 there was insufficient evidence to support the conviction (Claim Four); he should be
provided 7 credit for classes he missed for reasons beyond his control (Claim Five); and the
charges should 8 be reduced to misdemeanors (Claim Six).

ECF No. 1 at 4-11. Respondent filed a motion to 9 dismiss the petition (ECF No. 16), which
petitioner opposed (ECF No. 19). However, because 10 the opposition indicated that petitioner had
not received a copy of the motion, respondent was 11 ordered to re-serve the motion to dismiss,

and petitioner was given an opportunity to file a 12 supplemental opposition (ECF No. 22), which he did (ECF No. 24).

13 II. Motion to Dismiss 14 A. Party Positions 15 Respondent seeks dismissal of Claims Two, Three, Four, and Six pursuant to *Younger v. Harris*, 401 U.S. 37 (1971), on grounds that petitioner's conviction was not final when the federal 17 petition was filed. ECF No. 16 at 1-5. Respondent also argues that Claims One and Five should 18 be dismissed because they are state law claims and therefore not cognizable and are also 19 unexhausted.

Id. at 1, 5-7. 20 In his initial response, petitioner alleges that he did not receive a copy of the motion to 21 dismiss but argues that he should not remain convicted for non-crimes, he was convicted based on 22 fabricated testimony, he has no pending action in state court, and he can bring his claims at any 23 time. ECF No. 19 at 1-2, 3. He also makes various allegations that are unrelated to the claims in 24 his petition or the motion to dismiss and attaches exhibits which he purports support his claims 25 for relief.

Id. at 2-42. 26 1 Since petitioner is a prisoner proceeding pro se, he is afforded the benefit of the prison mailbox 27 rule. *Houston v. Lack*, 487 U.S. 266, 276 (1988) (establishing rule that a prisoner's court document is deemed filed on the date the prisoner delivered the document to prison officials for 28 mailing). 1 In reply, respondent argues that the opposition belies petitioner's claim that he did not 2 receive the motion to dismiss because he specifically addressed the claim that his conviction was 3 not final at the time he filed the petition.

ECF No. 20 at 2. Respondent also argues that the 4 California Supreme Court docket provided by petitioner as proof that his criminal proceedings 5 had concluded provides him no relief for two reasons. Id. First, the docket he provided is from 6 his direct appeal in a different criminal case and therefore has no bearing on the conclusion of the 7 state court proceedings at issue here.

Id. Second, even if the petition for review was related to 8 the criminal case at issue here, it was not denied until after the filing of the petition in this case, 9 meaning Claims Two, Three, Four, and Six would still be barred by *Younger*. Id. Finally, 10 respondent asserts that petitioner offers no federal authority to support his claim that he can bring 11 his claims at any time and his other arguments do nothing to refute the arguments in the motion to 12 dismiss.

Id. at 3. 13 In his supplemental response, petitioner once again alleges that he did not receive a copy 14 of respondent's motion to dismiss but did receive a copy of the reply, which he argues is "grossly 15 defective." ECF No. 24 at 1. Based on respondent's reply, petitioner argues that exhaustion is 16 based on the date the petition is decided, not the time of filing, making the motion to dismiss 17 frivolous.

Id. He also reiterates his claims that he has been convicted of a non-crime and can 18 therefore challenge his conviction at any time and various other allegations unrelated to the 19 claims or the

motion to dismiss. *Id.* at 2-7. 20 B. Receipt of Motion 21 As an initial matter, the court will address petitioner's claim that he has never received a 22 copy of the motion to dismiss.

As the court previously noted, petitioner's response to the 23 argument that his conviction was not final could have been based upon a similar motion filed in 24 *Singh v. Macomber*, 2:23-cv-2804 WBS EFB (E.D. Cal.), which was dismissed as duplicative of 25 this action. See ECF No. 22 at 1 n.1.

However, the record reflects that respondent has served 26 petitioner at his address of record twice. ECF No. 16 at 8; ECF No. 23. Although petitioner 27 claims that he has not received the motion to dismiss either time respondent served it, his filings 28 indicate that since the filing of the motion to dismiss he has received all other mail sent to him at 1 his address of record.

It therefore seems suspect that petitioner did not receive either copy of the 2 motion to dismiss. Regardless, even if the court assumes that petitioner did not receive the 3 motion, his address of record reflects that he is no longer incarcerated, and he is clearly aware of 4 the pending motion. Respondent has already properly served the motion twice, and petitioner 5 does not indicate that he made any attempts to obtain copies of the motion, either from the Clerk 6 of the Court, respondent, or PACER.

The court will not further delay consideration of the motion 7 due to petitioner's assertion that he has not received a copy when it appears he has taken no steps 8 of his own to obtain one. 9 C. Discussion 10 i. Abstention Doctrine 11 Under *Younger v. Harris*, federal courts may not interfere with a pending state criminal 12 prosecution or related proceeding absent "extraordinary circumstances, where the danger of 13 irreparable loss is both great and immediate." 401 U.S. at 45. "Younger abstention is a 14 jurisprudential doctrine rooted in overlapping principles of equity, comity, and federalism." 15 *Arevalo v. Hennessy*, 882 F.3d 763, 765 (9th Cir.

2018) (quoting *San Jose Silicon Valley 16 Chamber of Com. Pol. Action Comm. v. City of San Jose*, 546 F.3d 1087, 1091-92 (9th Cir. 17 2008)). 18 Abstention is appropriate if four requirements are met: "(1) there is 'an ongoing state 19 judicial proceeding'; (2) the proceeding 'implicate[s] important state interests'; (3) there is 'an 20 adequate opportunity in the state proceedings to raise constitutional challenges'; and (4) the 21 requested relief 'seek[s] to enjoin' or has 'the practical effect of enjoining' the ongoing state 22 judicial proceeding." *Id.* (alteration in original) (quoting *ReadyLink Healthcare, Inc. v. State 23 Comp.*

Ins. Fund, 754 F.3d 754, 758 (9th Cir. 2014)). All four elements must be satisfied to 24 warrant abstention. See *AmerisourceBergen Corp. v. Roden*, 495 F.3d 1143, 1149 (9th Cir. 25 2007). 26 All four Younger abstention criteria are met in this case.

First, petitioner's direct appeal 27 in his criminal case was still pending in state court when he filed the instant petition on October 28 16, 2023. See ECF No. 15-6 (appellate docket in direct

appeal showing notice of appeal received 1 October 4, 2023).

Moreover, though it appears petitioner's appeal has since concluded, it is the status of the state court proceeding at the time the federal petition was filed that matters for Younger purposes. *Beltran v. State of California*, 871 F.2d 777, 782 (9th Cir. 1988) (dismissal required under Younger if state court proceedings were ongoing at time action was filed even if they conclude before the court addresses the issue); *Kitchens v. Bowen*, 825 F.2d 1337, 1341 (9th Cir.

1987) ("[T]he critical question is not whether the state proceedings are still 'ongoing', but whether 'the state proceedings were underway before initiation of the federal proceedings.'" 8 (quoting *Fresh Int'l Corp. v. Agric. Lab. Rels. Bd.*, 805 F.2d 1353, 1358 (9th Cir. 1986)). 9 Therefore, the first Younger requirement is satisfied. 10 Second, criminal proceedings indisputably implicate important state interests for Younger 11 purposes. "[T]he States' interest in administering their criminal justice systems free from federal 12 interference is one of the most powerful of the considerations that should influence a court 13 considering equitable types of relief." *Kelly v. Robinson*, 479 U.S. 36, 49 (1986) (citing 14 Younger, 401 U.S. at 44-45).

15 Third, California's appellate and post-conviction review process provides an opportunity 16 for consideration of federal constitutional questions. It does not matter to the Younger analysis 17 whether the specific federal claims petitioner wishes to present in this court are part of the 18 pending state proceeding. See *Comm'n's Telesystems Int'l v. Cal. Pub.*

Util. Comm'n, 196 F.3d 19 1011, 1020 (9th Cir. 1999) ("The 'adequate opportunity' prong of Younger... requires only the 20 absence of 'procedural bars' to raising a federal claim in the state proceedings." (citations 21 omitted)).

In other words, where vital state interests are involved, a federal court should abstain 22 "unless state law clearly bars the interposition of the constitutional claims." *Moore v. Sims*, 442 U.S. 415, 426 (1979). California law does not bar the presentation of petitioner's constitutional 24 claims, and petitioner has in fact already raised at least some of his claims in the California 25 courts.² See ECF No. 15-3 (petition for review). "[H]is lack of success does not render the forum 26 27 2 The court notes that while petitioner may seek to add additional claims after his resentencing has concluded, he has not demonstrated that he would not be able to bring those claims in his 28 direct appeal, and any new claims would also be subject to exhaustion requirements.

1 inadequate." *Baffert v. Cal. Horse Racing Bd.*, 332 F.3d 613, 621 (9th Cir. 2003). 2 Finally, consideration of petitioner's challenge to the validity of his conviction would 3 have the practical effect of enjoining the state court proceedings. It is widely recognized that 4 federal habeas proceedings regarding the validity of a conviction or sentence have the practical 5 effect of

enjoining or interfering with any ongoing state judicial proceedings in the underlying 6 criminal case.

Phillips v. Neuschmid, No. 2:19-cv-3225 RGK AFM, 2019 WL 6312573, at *2, 7 2019 U.S. Dist. LEXIS 204615, at *5 (C.D. Cal. Oct. 18, 2019) (“[C]ourts implicitly find that 8 granting federal habeas corpus relief would have the practical effect of enjoining or interfering 9 with the ongoing state judicial proceeding, even where the state proceeding is limited to 10 sentencing.”) (collecting cases); adopted, 2019 WL 6310269, 2019 U.S. Dist.

LEXIS 204569 11 (C.D. Cal. Nov. 22, 2019) (dismissing habeas petition on the ground of Younger abstention); see 12 also Beltran, 871 F.2d at 782 (Younger requires dismissal even if state court proceedings have 13 concluded prior to the district court addressing the issue and abstention order may simply result in 14 refiling of the federal complaint). This is true whether or not the aspect of the case being 15 addressed in the state court proceedings is the same aspect of the case being challenged in the 16 federal habeas petition.

See Edelbacher v. Calderon, 160 F.3d 582, 585 (9th Cir. 1998) (where 17 petitioner had exhausted state court remedies with respect to the issue of guilt but the penalty 18 phase was still ongoing, court “should not entertain petitioner’s federal habeas petition in the 19 absence of a penalty phase judgment in state court or until the existence of extremely unusual 20 circumstances warrant an exception”).

Here, granting petitioner the relief he seeks—release from 21 confinement and the invalidation of his conviction—would have had the practical effect of 22 mooted or enjoining the appeal. This is true regardless of the nature of the claims presented in 23 the two forums, and it is precisely the sort of interference with state criminal justice systems that 24 the Younger abstention doctrine seeks for foreclose.

25 Since all four Younger criteria are met, petitioner must show that bad faith, harassment, or 26 some other extraordinary circumstance that would make abstention inappropriate.” Middlesex 27 Cnty. Ethics Comm. v. Garden State Bar Ass’n, 457 U.S. 423, 435 (1982).

The “bad faith” 28 exception to Younger abstention is narrow: “[o]nly in cases of proven harassment or prosecutions 1 undertaken by officials in bad faith without hope of obtaining a valid conviction... is federal 2 injunctive relief against pending state prosecutions appropriate.” Perez v. Ledesma, 401 U.S. 82, 3 85 (1971).

In this case, petitioner makes only conclusory allegations of discrimination against 4 minorities and assertions that he was convicted using falsified evidence, which are not sufficient 5 to make the required showing. See Honeycutt v. Lowery, No. 3:14-cv-0046 RCJ VPC, 2014 WL 6 3784100, at *1, 2014 U.S. Dist. LEXIS 104925, at *2 (D. Nev. July 31, 2014) (claim that 7

petitioner was “being prosecuted on falsified evidence” was a “garden variety allegation” and not an extraordinary circumstance for Younger purposes).

9 ii. State Law Claims 10 A petitioner may seek federal habeas relief from a state-court conviction or sentence “only 11 on the ground that he is in custody in violation of the Constitution or laws or treaties of the United 12 States.” 28 U.S.C. § 2254(a). “[I]t is not the province of a federal habeas court to reexamine 13 state-court determinations on state-law questions,” *Estelle v. McGuire*, 502 U.S. 62, 67-68 14 (1991); *Middleton v. Cupp*, 768 F.2d 1083, 1085 (9th Cir.

1985) (habeas relief “is unavailable for 15 alleged error in the interpretation or application of state law”), and matters relating solely to the 16 interpretation or application of state law are not cognizable on federal habeas review, *Lewis v. 17 Jeffers*, 497 U.S. 764, 780 (1990) (“[F]ederal habeas corpus relief does not lie for errors of state 18 law.” (citations omitted)).

19 In Claims One and Five, petitioner alleges that his time credits have been miscalculated. 20 ECF No. 1 at 4, 10. California’s credits system is a creature of state law, and accordingly, 21 petitioner’s claim that his credits have been miscalculated under that system is an issue of state 22 law and not cognizable in this court. See, e.g., *Kitchen v. Jaime*, No. 18-cv-6514 JEM, 2021 WL 23 597874, at *7-8, 2021 U.S. Dist.

LEXIS 28588, at *17-18 (C.D. Cal. Feb. 16, 2021) (claims 24 regarding rate of earning credits not cognizable in federal habeas); *Grandberry v. Soto*, No. 15- 25 cv-7435 DMC JC, 2016 WL 8732426, at *4, 2016 U.S. Dist. LEXIS 185813, at *7-9 (C.D. Cal. 26 June 15, 2016) (same); *McClellan v. Valenzuela*, No. 1:13-cv-1602 LJO SKO, 2016 WL 27 7374580, at *10, 2016 U.S. Dist.

LEXIS 175340, at *24-25 (E.D. Cal. Dec. 19, 2016) (claim for 28 miscalculation of credits for out-to-court time not cognizable). 1 iii. Exhaustion 2 It further appears that Claims One and Five are unexhausted. Under the Antiterrorism and 3 Effective Death Penalty Act of 1996 (“AEDPA”), habeas petitioners are required to exhaust state 4 remedies before seeking relief in federal court.

28 U.S.C. § 2254(b). The petition indicates that 5 petitioner raised all of his claims in his state supreme court habeas petition, Case No. S266997, 6 but the court refused to consider them. ECF No. 1 at 3, 20. However, review of the petition in 7 that case shows that petitioner did not raise the issue of his time credits, ECF No. 15-5, and 8 petitioner has not identified any other case in which he claims to have raised the issues.

A 9 petitioner satisfies the exhaustion requirement by providing the state’s highest court with a full 10 and fair opportunity to consider his claims before presenting them to the federal court. *Picard v. 11 Connor*, 404 U.S. 270, 276 (1971), *Middleton*, 768 F.2d at 1086. Since it appears petitioner has 12 not exhausted Claims One and Five, they should be dismissed.

13 III. Conclusion 14 For the foregoing reasons, the requirements for Younger abstention are satisfied with 15 respect to Claims Two, Three, Four, and Six and those claims should be dismissed without 16 prejudice. Petitioner is advised that dismissal pursuant to Younger is without prejudice and, 17 based on the record before the court, the statute of limitations has not yet expired.

See 28 U.S.C. 18 § 2244(d)(1)(A) (statute of limitations runs from date on which judgment becomes final). With 19 respect to Claims One and Five, they must be dismissed because they are not cognizable in 20 federal habeas and are unexhausted. 21 CONCLUSION 22 Accordingly, IT IS HEREBY ORDERED that respondent's request to substitute (ECF 23 No. 10 at 1 n.1) is GRANTED.

Kathleen N. Ratliff, the warden at California Health Care 24 Facility, is substituted as respondent and the Clerk of the Court is directed to update the docket 25 accordingly 26 IT IS FURTHER RECOMMENDED that: 27 1. That respondent's motion to dismiss (ECF No. 16) be GRANTED; and 28 2. That the petition (ECF No. 1) be DISMISSED without prejudice.] These findings and recommendations are submitted to the United States District Judge 2 || assigned to the case, pursuant to the provisions of 28 U.S.C. § 636(b)(1).

Within fourteen days 3 || after being served with these findings and recommendations, any party may file written 4 || objections with the court and serve a copy on all parties. Such a document should be captioned 5 || "Objections to Magistrate Judge's Findings and Recommendations." Any response to the 6 || objections shall be filed and served within fourteen days after service of the objections.

The 7 || parties are advised that failure to file objections within the specified time may waive the right to 8 | appeal the District Court's order. *Martinez v. Ylst*, 951 F.2d 1153 (9th Cir. 1991). 9 If petitioner files objections, he may also address whether a certificate of appealability 10 || should issue and, if so, why and as to which issues. Pursuant to Rule 11 of the Federal Rules 11 || Governing Section 2254 Cases, this court must issue or deny a certificate of appealability when it 12 || enters a final order adverse to the applicant.

A certificate of appealability may issue only "if the 13 || applicant has made a substantial showing of the denial of a constitutional right." 28 U.S.C. 14 | § 2253(c)(2). 15 | DATED: August 21, 2025 ~ 16 Chthwen— Clare ALLISON CLAIRE 17 UNITED STATES MAGISTRATE JUDGE 18 19 20 21 22 23 24 25 26 27 28