

**UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF
CALIFORNIA**

Spillers v. Covello

Spillers · No. 2:24-cv-1865 WBS CKD P · Decided October 15, 2025

OPINION

1 2 3 4 5 6 7 8 UNITED STATES DISTRICT COURT 9 FOR THE EASTERN DISTRICT OF
CALIFORNIA 10 11 JOSEPH D. SPILLERS, No. 2:24-cv-1865 WBS CKD P 12 Petitioner, 13 v.
FINDINGS AND RECOMMENDATIONS 14 PATRICK COVELLO, 15 Respondent. 16 17
Petitioner, a state prisoner proceeding pro se, has filed a petition for a writ of habeas 18 corpus
pursuant to 28 U.S.C. § 2254.

The operative petition is the second amended petition filed 19 October 2, 2024. In the second
amended petition, petitioner claims he is entitled to more good 20 conduct sentence credit that has
been applied to his sentence. Respondent asserts the second 21 amended petition should be
dismissed. 22 An application for a writ of habeas corpus by a person in custody under a judgment
of a 23 state court can be granted only for violations of the Constitution or laws of the United
States.

28 24 U.S.C. § 2254(a). A federal writ of habeas corpus is not available for alleged error in the 25
interpretation or application of state law. See *Wilson v. Corcoran*, 562 U.S. 1, 5 (2010); *Estelle v.*
26 *McGuire*, 502 U.S. 62, 67-68 (1991); *Park v. California*, 202 F.2d 1146, 1149 (9th Cir. 2000).
27 Respondent is correct that petitioner fails to identify a violation of federal law in his second 28
amended petition, and that is an appropriate basis for dismissal.

1 Even if the court assumes petitioner has a liberty interest protected by the Due Process 2 Clause
of the Fourteenth Amendment as to the accrual of sentence credit as mandated under 3 California
law, petitioner fares no better. Petitioner has been informed that he earns 1 day of 4 credit for
every 2 days he spends in custody pursuant to Title 15 California Code of Regulations § 5
3043.2(b).

ECF No. 9 at 15. This section applies to petitioner because he was convicted of a 6 “violent
felony” (carjacking) and is serving determinate or indeterminate sentence. Petitioner 7 claims he is
entitled to more credit under 3043.2(b)(4) or (5) because he is a minimum security 8 prisoner.

However, those sections do not apply to inmates such as petitioner who were convicted 9 of
violent felonies unless they complete firefighter training or are housed at a fire camp in a role 10
other than firefighter. Petitioner alleges neither. 11 For all of the foregoing reasons, the court will

recommend that respondent's motion to 12 dismiss be granted, petitioner's second amended petition for a writ of habeas corpus be dismissed, 13 and this case be closed.

14 Accordingly, IT IS HEREBY RECOMMENDED that: 15 1. Respondent's motion to dismiss (ECF No. 16) be GRANTED; 16 2. Petitioner's second amended petition for a writ of habeas corpus (ECF No. 9) be 17 DISMISSED; and 18 3. This case be closed. 19 These findings and recommendations are submitted to the United States District Judge 20 assigned to the case, pursuant to the provisions of 28 U.S.C. § 636(b)(1).

Within fourteen days 21 after being served with these findings and recommendations, any party may file written 22 objections with the court and serve a copy on all parties. Such a document should be captioned 23 "Objections to Magistrate Judge's Findings and Recommendations." In his objections petitioner 24 may address whether a certificate of appealability should issue in the event he files an appeal of 25 the judgment in this case.

See Rule 11, Federal Rules Governing Section 2254 Cases (the district 26 court must issue or deny a certificate of appealability when it enters a final order adverse to the 27 applicant). A certificate of appealability may issue under 28 U.S.C. § 2253 "only if the applicant 28 has made a substantial showing of the denial of a constitutional right." 28 U.S.C. § 2253(c)(3).

1 | Any response to the objections shall be served and filed within fourteen days after service of the 2 || objections. The parties are advised that failure to file objections within the specified time may 3 || waive the right to appeal the District Court's order. Martinez v. Ylst, 951 F.2d 1153 (9th Cir. 4} 1991). 5 | Dated: 10/15/25 Card ht fa he 7 UNITED STATES MAGISTRATE JUDGE 8 9 10 11 ji spil1865.mtd 12 13 14 15 16 17 18 19 20 21 22 23 24 25 26 27 28