

UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF
CALIFORNIA

Guang Ju Lin v. Respondent

Lin · No. 1:25-cv-01363-SAB-HC · Decided December 12, 2025

SUMMARY

The United States District Court for the Eastern District of California grants a federal prisoner leave to file a first amended petition under 28 U.S.C. § 2241 and directs the Clerk to provide blank § 2241 forms. The court explains that challenges to a federal conviction generally must be brought under 28 U.S.C. § 2255 in the sentencing court, unless the § 2255 savings clause applies. The court also observes that the record appears to show convictions for racketeering and racketeering conspiracy rather than a conviction under the VICAR statute.

CASE DETAILS

COURT	United States District Court for the Eastern District of California
WRITING FOR THE COURT	Stanley A. Boone
JURISDICTION	United States District Court for the Eastern District of California
DECIDED	December 12, 2025
DOCKET	1:25-cv-01363-SAB-HC
DISPOSITION	other
PROCEDURAL POSTURE	A federal prisoner filed a petition for a writ of habeas corpus under 28 U.S.C. § 2241 challenging the validity of his federal convictions and sentence. On preliminary review, the court granted leave to file a first amended petition and directed the clerk to provide blank § 2241 forms.
STANDARD OF REVIEW	Preliminary habeas screening under Rule 4 of the Rules Governing Section 2254 Cases, as applied to § 2241 petitions under Rule 1(b): dismissal is permitted when it plainly appears from the petition and attached exhibits that the petitioner is not entitled to relief.
PRECEDENTIAL VALUE	Unpublished, nonprecedential district-court order
PARTIES	Guang Ju Lin, Petitioner v. Respondent

TOPICS

- federal habeas corpus
- actual innocence
- pleadings
- post-conviction relief
- civil procedure

PRACTICE AREAS

federal habeas corpus

post-conviction relief

criminal procedure

civil procedure

QUESTIONS PRESENTED

1. Whether a federal prisoner may use a § 2241 petition to challenge the validity of a federal conviction or sentence when the claims ordinarily must be presented in a § 2255 motion to the sentencing court.
2. Whether the petition adequately showed that the § 2255(e) savings-clause or escape-hatch exception could permit § 2241 review.
3. Whether the petition should be dismissed without leave to amend when the asserted conviction and legal theories were unclear or appeared inconsistent with the underlying judgment.

HOLDINGS

1. A federal prisoner generally must challenge the validity or constitutionality of a federal conviction or sentence through a motion under 28 U.S.C. § 2255 filed in the sentencing court, rather than through a § 2241 petition in the custodial court.
2. A federal prisoner may proceed under § 2241 through the Ninth Circuit's narrow escape-hatch framework only by showing actual innocence and that the petitioner lacked an unobstructed procedural shot at presenting the claim.
3. A habeas petition should not be dismissed without leave to amend unless it appears that no tenable claim for relief could be pleaded if leave were granted; because Lin might be able to plead a tenable claim, he was granted leave to file a first amended petition.

KEY QUOTATIONS

“The general rule is that a motion under 28 U.S.C. § 2255 is the exclusive means by which a federal prisoner may test the legality of his detention, and that restrictions on the availability of a § 2255 motion cannot be avoided through a petition under 28 U.S.C. § 2241.” (at 2)

“To establish actual innocence, petitioner must demonstrate that, in light of all the evidence, it is more likely than not that no reasonable juror would have convicted him.” (at 3)

“a petition for habeas corpus should not be dismissed without leave to amend unless it appears that no tenable claim for relief can be pleaded were such leave granted.” (at 4)

FACTUAL BACKGROUND

Lin is a federal prisoner incarcerated at the United States Penitentiary in Atwater, California, serving a sentence imposed by the Southern District of New York. He filed a § 2241 petition asserting that amendments to California's felony-murder rule affected his purported VICAR murder conviction, that counsel was ineffective for failing to raise an elements argument under *United States v. Johnson*, and that his conviction under 18 U.S.C. § 1959(a)(1) was legally deficient or unsupported by sufficient evidence. The court reviewed the judgment in Lin's underlying criminal case and concluded that it appeared to reflect convictions for racketeering under 18

U.S.C. § 1962(c) and racketeering conspiracy under § 1962(d), not a conviction under the VICAR statute, 18 U.S.C. § 1959.

PROCEDURAL HISTORY

Lin filed the § 2241 petition on October 14, 2025 while incarcerated at the United States Penitentiary in Atwater, California. He challenged convictions he identified as VICAR-related and asserted ineffective assistance and insufficient evidence. The court found that the petition did not appear to establish that Lin was convicted under the VICAR statute and therefore granted him thirty days to amend rather than dismissing the petition without leave.

DISPOSITION

other

CASES CITED

- Alaimalo v. United States, 645 F.3d 1042, 1046-47 (9th Cir. 2011)
- Stephens v. Herrera, 464 F.3d 895, 897-98 (9th Cir. 2006)
- Harrison v. Ollison, 519 F.3d 952, 956, 960 (9th Cir. 2008)
- Hernandez v. Campbell, 204 F.3d 861, 864-65 (9th Cir. 2000) (per curiam)
- Ivy v. Pontesso, 328 F.3d 1057, 1059-60 (9th Cir. 2003)
- Redfield v. United States, 315 F.2d 76, 83 (9th Cir. 1963)
- Bousley v. United States, 523 U.S. 614, 623 (1998)
- United States v. Tillman, No. 19-16419, 2021 WL 3739175, at *1 (9th Cir. Aug. 24, 2021)
- United States v. Lin, 505 F. App'x 10, 11 (2d Cir. 2012)
- Jarvis v. Nelson, 440 F.2d 13, 14 (9th Cir. 1971) (per curiam)
- U.S. ex rel. Robinson Rancheria Citizens Council v. Borneo, Inc., 971 F.2d 244, 248 (9th Cir. 1992)
- United States v. Raygoza-Garcia, 902 F.3d 994, 1001 (9th Cir. 2018)

OPINION

1 2 3 4 5 6 7 8 UNITED STATES DISTRICT COURT 9 EASTERN DISTRICT OF
CALIFORNIA 10 11 GUANG JU LIN, Case No. 1:25-cv-01363-SAB-HC 12 Petitioner, ORDER
GRANTING PETITIONER LEAVE TO FILE FIRST AMENDED PETITION 13 v. ORDER
DIRECTING CLERK OF COURT 14 ON HABEAS CORPUS, TO SEND PETITIONER
BLANK § 2241 FORM 15 Respondent. 16 17 Petitioner is a federal prisoner proceeding pro se
with a petition for writ of habeas corpus 18 pursuant to 28 U.S.C. § 2241.

19 I. 20 BACKGROUND 21 Petitioner is currently incarcerated at the U.S. Penitentiary in
Atwater, California, serving 22 a sentence imposed by the United States District Court for the

Southern District of New York. 23 (ECF No. 1 at 2.1) On October 14, 2025, Petitioner filed the instant petition for writ of habeas corpus. 24

In Ground One, Petitioner asserts that in 2019, the California felony-murder rule, the 25 elements of which were “incorporated into the VICAR murder for which [Petitioner] was 26 convicted,” was amended. (Id. at 3.)

In Ground Two, Petitioner asserts ineffective assistance of 27 counsel for not raising an elements argument under *United States v. Johnson*, “for the 18 U.S.C. 1 1959(a) conviction.” (ECF No. 1 at 3.) In Ground Three, Petitioner asserts legally deficient 2 conduct or insufficient evidence regarding Petitioner’s “convict[ion] under 18 U.S.C. 3 1959(a)(1)” and contends that his “VICAR conviction is unlawful.” (Id. at 4, 5.)

4 II. 5 DISCUSSION 6 Rule 4 of the Rules Governing Section 2254 Cases² requires preliminary review of a 7 habeas petition and allows a district court to dismiss a petition before the respondent is ordered 8 to file a response, if it “plainly appears from the petition and any attached exhibits that the 9 petitioner is not entitled to relief in the district court.” Rule 4, Rules Governing Section 2254 10 Cases in the United States District Courts, 28 U.S.C. foll. § 2254.

11 A federal prisoner who wishes to challenge the validity or constitutionality of his federal 12 conviction or sentence must do so by moving the court that imposed the sentence to vacate, set 13 aside, or correct the sentence under 28 U.S.C. § 2255. *Alaimalo v. United States*, 645 F.3d 1042, 14 1046 (9th Cir. 2011). “The general rule is that a motion under 28 U.S.C. § 2255 is the exclusive 15 means by which a federal prisoner may test the legality of his detention, and that restrictions on 16 the availability of a § 2255 motion cannot be avoided through a petition under 28 U.S.C. 17 § 2241.” *Stephens v. Herrera*, 464 F.3d 895, 897 (9th Cir.

2006) (citations omitted). 18 Nevertheless, a “savings clause” or “escape hatch” exists in § 2255(e) by which a federal 19 prisoner may seek relief under § 2241 if he can demonstrate the remedy available under § 2255 20 to be “inadequate or ineffective to test the validity of his detention.” *Alaimalo*, 645 F.3d at 1047 21 (internal quotation marks omitted) (quoting 28 U.S.C. § 2255); *Harrison v. Ollison*, 519 F.3d 22 952, 956 (9th Cir.

2008); *Hernandez v. Campbell*, 204 F.3d 861, 864–65 (9th Cir. 2000) (per 23 curiam). The Ninth Circuit has recognized that it is a very narrow exception. See *Ivy v. Pontesso*, 24 328 F.3d 1057, 1059 (9th Cir. 2003). The remedy under § 2255 usually will not be deemed 25 inadequate or ineffective merely because a prior § 2255 motion was denied, or because a remedy 26 27 2 The Rules Governing Section 2254 Cases apply to § 2241 habeas petitions.

See Rule 1(b) of the Rules Governing Section 2254 Cases (“The district court may apply any or all of these rules to a habeas corpus petition not covered 1 under § 2255 is procedurally barred. Id. The burden is on the petitioner to show that the remedy 2 is inadequate or ineffective. *Redfield v.*

United States, 315 F.2d 76, 83 (9th Cir. 1963). 3 “An inquiry into whether a § 2241 petition is proper under these circumstances is critical 4 to the determination of district court jurisdiction” because § 2241 petitions must be heard in the 5 custodial court while § 2255 motions must be heard in the sentencing court.

Hernandez, 204 F.3d 6 at 865. If the instant petition is properly brought under 28 U.S.C. § 2241, it may be heard in this 7 Court. Conversely, if the instant petition is in fact a disguised § 2255 motion, it must be heard in 8 the United States District Court for the Southern District of New York as the sentencing court. 9 A petitioner may proceed under § 2241 pursuant to the escape hatch when the petitioner 10 “(1) makes a claim of actual innocence, and (2) has not had an ‘unobstructed procedural shot’ at 11 presenting that claim.” Stephens, 464 F.3d at 898 (citing Ivy, 328 F.3d at 1060).

In the Ninth 12 Circuit, a claim of actual innocence for purposes of the § 2255 escape hatch is tested by the 13 standard articulated by the Supreme Court in Bousley v. United States, 523 U.S. 614 (1998). 14 Stephens, 464 F.3d at 898.

In Bousley, the Supreme Court explained that “[t]o establish actual 15 innocence, petitioner must demonstrate that, in light of all the evidence, it is more likely than not 16 that no reasonable juror would have convicted him.” 523 U.S. at 623 (internal quotation marks 17 and citation omitted). Furthermore, “actual innocence means factual innocence, not mere legal 18 insufficiency.” Id. “In determining whether a petitioner had an unobstructed procedural shot to 19 pursue his claim, we ask whether petitioner’s claim ‘did not become available’ until after a 20 federal court decision.

In other words, we consider: (1) whether the legal basis for petitioner’s 21 claim ‘did not arise until after he had exhausted his direct appeal and first § 2255 motion;’ and 22 (2) whether the law changed ‘in any way relevant’ to petitioner’s claim after that first § 2255 23 motion.” Harrison, 519 F.3d at 960 (citations omitted)). 24 Here, Petitioner’s claims all concern his purported “VICAR murder” or “18 U.S.C. 25 1959(a)” conviction.

(ECF No. 1 at 3–5.) “Because [18 U.S.C.] § 1959’s title is ‘Violent crimes 26 in aid of racketeering activity,’ that section is sometimes referred to as the ‘VICAR statute.’” 27 United States v. Tillman, No. 19-16419, 2021 WL 3739175, at *1 (9th Cir. Aug. 24, 2021). 1 | racketeering conspiracy, in violation of 18 U.S.C. § 1962(d). Judgment, United States v. Lin, No. 2 | 1:09-cr-00746 (S.D.N.Y.

Dec. 8, 2011), ECF No. 124.7 See also United States v. Lin, 505 F. 3 | App’x 10, 11 @d Cir. 2012) (“Guang Ju Lin appeals a December 8, 2011 judgment of the 4 | District Court convicting him... of one count of racketeering, in violation of 18 U.S.C. § 5 | 1962(c), and one count of racketeering conspiracy, in violation of 18 U.S.C. § 1962(d)[.]”) It 6 | does not appear that Petitioner was convicted under the VICAR statute, 18 U.S.C. 1959.

7 “[A] petition for habeas corpus should not be dismissed without leave to amend unless it 8 |
appears that no tenable claim for relief can be pleaded were such leave granted.” Jarvis v. 9 |
Nelson, 440 F.2d 13, 14 (9th Cir. 1971) (per curiam).

Therefore, the Court will grant Petitioner 10 | an opportunity to file an amended petition. 11 III. 12
ORDER 13 Accordingly, the Court HEREBY ORDERS that: 14 1. Petitioner is GRANTED leave
to file a first amended petition within THIRTY (30) days 15 of the date of service of this order;
and 16 2.

The Clerk of Court is DIRECTED to send Petitioner blank § 2241 habeas forms. 17 18 IT IS SO
ORDERED. AA. Se 19 | Dated: _December 12, 2025 _ eS STANLEY A. BOONE 20 United
States Magistrate Judge 21 22 23 24 25 3 The Court “may take notice of proceedings in other
courts, both within and without the federal judicial system, if 97 | those proceedings have a direct
relation to matters at issue.” U.S. ex rel.

Robinson Rancheria Citizens Council v. Borneo, Inc., 971 F.2d 244, 248 (9th Cir. 1992) (internal
quotation marks and citation omitted)). See also United States v. Raygoza-Garcia, 902 F.3d 994,
1001 (9th Cir. 2018) (“A court may take judicial notice of undisputed 28 | matters of public record,
which may include court records available through PACER.”).