

UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF
CALIFORNIA

Serpa v. Unknown

No. 2:25-cv-0788-JDP (P) (E.D. Cal. May 30, 2025) · No. 2:25-cv-0788-JDP (P) · Decided May 30, 2025

SUMMARY

The court granted petitioner leave to amend his habeas petition because the allegations concerning an alleged sexual assault by a correctional officer appeared to challenge prison conditions rather than the validity of his conviction. The court directed petitioner to submit either an amended habeas petition or a completed 42 U.S.C. § 1983 complaint within 30 days and reserved ruling on his motion to proceed in forma pauperis.

CASE DETAILS

COURT	United States District Court for the Eastern District of California
WRITING FOR THE COURT	Jeremy D. Peterson
JURISDICTION	United States District Court for the Eastern District of California
DECIDED	May 30, 2025
DOCKET	2:25-cv-0788-JDP (P)
DISPOSITION	other
PROCEDURAL POSTURE	A state prisoner filed a petition under 28 U.S.C. § 2254 and moved to proceed in forma pauperis. On preliminary review under Rule 4, the court determined that the allegations appeared to concern a constitutional injury rather than the validity of the petitioner's conviction and granted leave to amend.
STANDARD OF REVIEW	Under Rule 4 of the Rules Governing Section 2254 Cases, the court must examine a habeas petition and order a response unless it plainly appears that the petitioner is not entitled to relief.
PRECEDENTIAL VALUE	nonprecedential

TOPICS

- federal habeas corpus
- section 1983
- pleadings
- prisoners rights
- civil procedure

PRACTICE AREAS

QUESTIONS PRESENTED

1. Whether the allegations in the § 2254 petition appeared to challenge the validity of the petitioner's conviction or instead asserted a civil-rights claim cognizable under 42 U.S.C. § 1983.
2. Whether the petitioner should be given leave to amend and identify the type of action he intended to pursue.

HOLDINGS

1. The court granted the petitioner leave to amend and required him to choose between filing an amended habeas petition that explains why his conviction is invalid and filing a § 1983 complaint identifying the constitutional rights allegedly violated.
2. At preliminary review, the court must examine the habeas petition and order a response unless it plainly appears that the petitioner is not entitled to relief.

KEY QUOTATIONS

“Under Rule 4, the judge assigned to the habeas proceeding must examine the habeas petition and order a response to the petition unless it “plainly appears” that the petitioner is not entitled to relief.” (at 1)

FACTUAL BACKGROUND

Serpa is a state prisoner proceeding pro se. He filed this action on a habeas form under 28 U.S.C. § 2254, but his allegations concerned sexual assault allegedly committed by an unknown correctional officer at Corcoran State Prison. The court could not determine whether Serpa intended to challenge the validity of his conviction or pursue a civil-rights claim based on the alleged assault.

PROCEDURAL HISTORY

Jesse A. Serpa filed a habeas petition alleging that an unknown correctional officer sexually assaulted him at Corcoran State Prison. The court conducted preliminary review under Rule 4 of the Rules Governing Section 2254 Cases, ordered the Clerk to provide habeas and § 1983 forms, and gave Serpa thirty days to submit an amended habeas petition or a § 1983 complaint. The court reserved ruling on the motion to proceed in forma pauperis.

DISPOSITION

other

CASES CITED

- Valdez v. Montgomery, 918 F.3d 687, 693 (9th Cir. 2019)
- Boyd v. Thompson, 147 F.3d 1124, 1127 (9th Cir. 1998)

OPINION

1 2 3 4 5 6 7 8 UNITED STATES DISTRICT COURT 9 FOR THE EASTERN DISTRICT OF
CALIFORNIA 10 11 JESSE A. SERPA, Case No. 2:25-cv-0788-JDP (P) 12 Petitioner, 13 v.
ORDER 14 UNKNOWN, 15 Respondent. 16 17 Petitioner, a state prisoner proceeding pro se,
brings this action under 28 U.S.C. § 2254. 18 ECF No. 1. He also moves to proceed in forma
pauperis. ECF No. 6. I will give petitioner leave 19 to amend his petition because it appears that
the claims raised therein do not attack the validity of 20 his conviction and, instead, should be
brought under 42 U.S.C. § 1983.

Petitioner should indicate 21 what type of case he wants to bring should he choose to amend his
petition. I will also reserve 22 ruling on his motion to proceed in forma pauperis until petitioner
determines what sort of action 23 he intends to proceed on. 24 The petition is before me for
preliminary review under Rule 4 of the Rules Governing 25 Section 2254 Cases.

Under Rule 4, the judge assigned to the habeas proceeding must examine 26 the habeas petition
and order a response to the petition unless it “plainly appears” that the 27 28 1 | petitioner is not
entitled to relief. See *Valdez v. Montgomery*, 918 F.3d 687, 693 (9th Cir. 2019); 2 | *Boyd v.*
Thompson, 147 F.3d 1124, 1127 (9th Cir. 1998). 3 Petitioner filed this action on a habeas form, but
his allegations concern sexual assault that 4 | he purportedly endured at the hands of an unknown
correctional officer at Corcoran State Prison.

5 | ECF No. 1 at 3. As such, I cannot tell what petitioner’s intention is. If he wishes to attack the 6 |
sufficiency of his conviction, then he must describe why that conviction is insufficient. By 7 |
contrast, if petitioner wishes to bring a § 1983 claim for a violation of his constitutional rights, he
8 | must specifically identify what rights were violated and file his complaint on a § 1983 form.

As 9 | such, I will give petitioner leave to amend to confirm what type of case he wishes to pursue.
10 Accordingly, it is hereby ORDERED that: 11 1. The Clerk of Court shall send petitioner a
habeas form and a § 1983 form with this 12 | order. 13 2. Within thirty (30) days from the entry of
this order, petitioner must return either an 14 | amended habeas form or a completed § 1983 form,
depending on the type of action he wishes to 15 || pursue.

16 7 IT IS SO ORDERED. Dated: _ May 30, 2025 a—— 19 JEREMY D. PETERSON
UNITED STATES MAGISTRATE JUDGE 21 22 23 24 25 26 27 28