

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

Tony Hill v. Tammy Campbell

Hill v. Campbell · No. 1:25-cv-01474-SKO (HC) · Decided November 5, 2025

OPINION

1 2 3 4 5 6 7 8 UNITED STATES DISTRICT COURT 9 FOR THE EASTERN DISTRICT OF
CALIFORNIA 10 11 TONY HILL, No. 1:25-cv-01474-SKO (HC) 12 Petitioner, ORDER
DIRECTING CLERK OF COURT TO ASSIGN DISTRICT JUDGE 13 v. FINDINGS AND
RECOMMENDATION 14 TAMMY CAMPBELL, TO SUMMARILY DISMISS PETITION 15
Respondent. [21-DAY OBJECTION DEADLINE] 16 17 Petitioner is a state prisoner proceeding
pro se and in forma pauperis with a petition for 18 writ of habeas corpus pursuant to 28 U.S.C.
§2254.

He filed the instant petition on November 3, 19 2025. The petition does not challenge the
underlying conviction, and instead presents claims 20 regarding the conditions of his confinement.
Accordingly, the Court will recommend it be 21 DISMISSED. 22 DISCUSSION 23 A.
Preliminary Review of Petition 24 Rule 4 of the Rules Governing Section 2254 Cases allows a
district court to dismiss a 25 petition if it “plainly appears from the petition and any attached
exhibits that the petitioner is not 26 entitled to relief in the district court....” Rule 4 of the Rules
Governing Section 2254 Cases.

27 The Advisory Committee Notes to Rule 8 indicate that the court may dismiss a petition for writ
of 28 habeas corpus, either on its own motion under Rule 4, pursuant to the respondent’s motion
to 1 dismiss, or after an answer to the petition has been filed. *Herbst v. Cook*, 260 F.3d 1039 (9th
Cir. 2 2001). 3 B. Civil Rights Claims 4 Petitioner does not challenge his conviction, and instead
complains that prison staff intend 5 to house another inmate in his cell despite his “single-cell
status.” He requests an order from the 6 Court declaring that he is to remain on single-cell status.

7 A habeas corpus petition is the correct method for a prisoner to challenge the “legality or 8
duration” of his confinement. *Badea v. Cox*, 931 F.2d 573, 574 (9th Cir. 1991) (quoting *Preiser* 9
v. *Rodriguez*, 411 U.S. 475, 485 (1973)).

In contrast, a civil rights action pursuant to 42 U.S.C. § 10 1983 is the proper method for a
prisoner to challenge the conditions of confinement. *McCarthy v. 11 Bronson*, 500 U.S. 136, 141-
42 (1991); *Preiser*, 411 U.S. at 499. Petitioner’s civil rights claims 12 are not cognizable in a
federal habeas action and must be dismissed. Petitioner must seek relief 13 for his complaints by
way of a civil rights action.

14 In *Nettles v. Grounds*, 830 F.3d 922, 936 (9th Cir. 2016), the Ninth Circuit held that a 15 district court has the discretion to construe a habeas petition as a civil rights action under § 1983. 16 However, recharacterization is appropriate only if it is “amenable to conversion on its face, 17 meaning that it names the correct defendants and seeks the correct relief,” and only after the 18 petitioner is warned of the consequences of conversion and is provided an opportunity to 19 withdraw or amend the petition.

Id. Here, the Court does not find recharacterization to be 20 appropriate. Petitioner does not name the proper defendants and the claims are not amenable to 21 conversion on their face. Accordingly, the Court should not exercise its discretion to 22 recharacterize the action. 23 Therefore, the Court will recommend that the action be dismissed and the Clerk of Court 24 be directed to send Petitioner a blank civil rights complaint.

25 ORDER 26 IT IS HEREBY ORDERED that the Clerk of Court is DIRECTED to assign a District 27 Judge to the case. 28 1 RECOMMENDATION 2 Based on the foregoing, the Court HEREBY RECOMMENDS that the habeas corpus 3 petition be DISMISSED, and the Clerk of Court be DIRECTED to provide Petitioner with a 4 blank civil rights complaint form. 5 This Findings and Recommendation is submitted to the United States District Court Judge 6 assigned to the case, pursuant to the provisions of 28 U.S.C. § 636 (b)(1)(B) and Rule 304 of the 7 Local Rules of Practice for the United States District Court, Eastern District of California.

Within 8 twenty-one (21) days after being served with a copy of this Findings and Recommendation, a 9 party may file written objections with the Court and serve a copy on all parties. Id. The document 10 should be captioned, “Objections to Magistrate Judge’s Findings and Recommendation” and shall 11 not exceed fifteen (15) pages, except by leave of court with good cause shown.

The Court will not 12 consider exhibits attached to the Objections. To the extent a party wishes to refer to any 13 exhibit(s), the party should reference the exhibit in the record by its CM/ECF document and page 14 number, when possible, or otherwise reference the exhibit with specificity. Any pages filed in 15 excess of the fifteen (15) page limitation may be disregarded by the District Judge when 16 reviewing these Findings and Recommendations pursuant to 28 U.S.C. § 636 (b) (1)(C).

The 17 parties are advised that failure to file objections within the specified time may result in the waiver 18 of rights on appeal. *Wilkerson v. Wheeler*, 772 F.3d 834, 838-39 (9th Cir. 2014). This 19 recommendation is not an order that is immediately appealable to the Ninth Circuit Court of 20 Appeals. Any notice of appeal pursuant to Rule 4(a)(1), Federal Rules of Appellate Procedure, 21 should not be filed until entry of the District Court's judgment.

22 IT IS SO ORDERED. 23 24 Dated: November 5, 2025 /s/ Sheila K. Oberto. UNITED STATES
MAGISTRATE JUDGE 25 26 27 28

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