

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

Edward Don Brown v. B. Cates

No. 2:05-cv-1195 DAD CSK P (E.D. Cal. June 11, 2025) · No. No. 2:05-cv-1195 DAD CSK P · Decided June
11, 2025

OPINION

(HC) Brown v. Yates

PER CURIAM.

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8 UNITED STATES DISTRICT COURT

9 FOR THE EASTERN DISTRICT OF CALIFORNIA

10

11 EDWARD DON BROWN, No. 2:05-cv-1195 DAD CSK P

12 Petitioner, 13 v. ORDER

14 B. CATES,

15 Respondent. 16

17 Petitioner is a state prisoner proceeding pro se and in forma pauperis. The matter was 18
referred to a United States Magistrate Judge pursuant to 28 U.S.C. § 636(b)(1)(B) and Local Rule
19 302. This action seeking habeas relief under 28 U.S.C. § 2254 was closed on March 31, 2009,
20 and judgment was entered. (ECF Nos. 22, 23.) Petitioner filed a motion for new state court
trial, 21 and on January 17, 2025, this Court recommended that the motion be denied. (ECF Nos.
42, 44.) 22 On February 19, 2025, the district court adopted this Court's findings and
recommendations (ECF

23 No. 44) in full, and denied petitioner's motion for a new state court trial without prejudice to
the

24 filing of a second or successive federal habeas petition if authorized by the United States Court
of 25 Appeals for the Ninth Circuit. (ECF No. 45.) 26 On June 5, 2025, petitioner filed a letter
stating that he has been incarcerated since he was 27 19 years old and believes he should have
been released by now because of California's 28

1 Proposition 57 and other new laws that would entitle him to resentencing.¹ (ECF No. 50.)

2 However, as petitioner was informed in the district court's February 19, 2025 order, 3 petitioner
cannot file a federal habeas petition in this Court until the United States Court of 4 Appeals for the
Ninth Circuit grants petitioner authorization to file a second or successive petition 5 for writ of
habeas corpus in the Eastern District of California. (ECF No. 45.) On May 28, 2025, 6 the Ninth
Circuit denied petitioner's application for leave to file a second or successive § 2254 7 petition.
Brown v. Cates, No. 25-712 (9th Cir. 2025). The Ninth Circuit wrote: 8 The application for

authorization to file a second or successive 28 U.S.C. § 2254 habeas corpus petition in the district court is denied 9 without prejudice to filing a new application that complies with Ninth Circuit Rule 22-3. Specifically, the application must: 10 (1) include the proposed second or successive § 2254 petition that the applicant seeks to file in the district court; and (2) state as to each 11 claim presented whether it previously has been raised in any state or federal court and, if so, the name of the court and the date of the order 12 disposing of the claim(s); and (3) state how the requirements of § 2244(b) have been satisfied. 13

14 No. 25-712 (ECF No. 8).² Once petitioner complies with the Ninth Circuit’s order and if the 15 Ninth Circuit grants him permission to file a second or successive petition, only then may 16 petitioner file a new petition for writ of habeas corpus in the Eastern District of California. In 17 other words, any second or successive habeas petition must be filed as a new action, accompanied 18 by an application to proceed in forma pauperis or the appropriate filing fee, and a copy of an 19 order from the Ninth Circuit expressly authorizing the filing of such second or successive 20 petition. 21 22 1 In 2016, California voters approved Proposition 57 which, in pertinent part, requires that “[a]ny person convicted of a nonviolent felony offense and sentenced to state prison shall be eligible for 23 parole consideration after completing the full term for his or her primary offense.” Cal. Const. 24 Art. I, § 32(a)(1). The “full term for the primary offense” is defined as “the longest term of imprisonment imposed by the court for any offense, excluding the imposition of an enhancement, 25 consecutive sentence, or alternative sentence.” Id. § 32(a)(1)(A). 26 2 A court may take judicial notice of court records. See, e.g., *Bennett v. Medtronic, Inc.*, 285 F.3d 801, 803 n.2 (9th Cir. 2002) (“[W]e may take notice of proceedings in other courts, both 27 within and without the federal judicial system, if those proceedings have a direct relation to matters at issue”) (internal quotation omitted). 28] Further, the CDCR California Incarcerated Records and Information Search (“CIRIS”) 2 | reflects that petitioner has had parole hearings since 2016, and currently has a tentative date for 3 | parole suitability hearing scheduled in April 2027.^o To the extent petitioner is asking the Court 4 || how to challenge his continued incarceration or his sentence imposed by the California trial court, 5 || petitioner is advised that the Court is unable to provide legal advice. 6 As petitioner was informed in the April 8, 2025 order, this action, No. 2:05-ev-1195 DAD 7 || CSKP, is closed. Thus, petitioner shall not file anything further in this closed case. Because this 8 | case is closed, petitioner is cautioned that the Court may not respond to any further filings in this 9 || closed case. 10 Accordingly, IT IS HEREBY ORDERED that petitioner’s letter (ECF No. 50) is placed in 11 || the Court file and disregarded. Petitioner shall not file anything further in this closed case, and 12 || the Court may not respond to any future filings in this closed case. 13 14 Dated: June 11, 2025 7 _-

15 CHI SOO KIM

16 UNITED STATES MAGISTRATE JUDGE

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3 This information was obtained from the CDCR Inmate Locator website, 26 ||
https://ciris.mt.cder.ca.gov/ (accessed June 9, 2025). The Court may take judicial notice of public
records available on online inmate locators. See *United States v. Basher*, 629 F.3d 1161, 1165 27 |
(9th Cir. 2011) (taking judicial notice of Bureau of Prisons' inmate locator available to the public);
see also *Foley v. Martz*, 2018 WL 5111998, at *1 (S.D. Cal. Oct. 19, 2018) (taking 28 | judicial
notice of CDCR's inmate locator).

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