

UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF
CALIFORNIA

G. Memo Vera v. Kern County Superior Court Psych's

Case No. 1:24-cv-01332-CDB (HC) (E.D. Cal. Aug. 11, 2025) · No. 1:24-cv-01332-CDB (HC) · Decided
August 11, 2025

SUMMARY

The United States District Court for the Eastern District of California screened G. Memo Vera’s pro se petition for a writ of habeas corpus under 28 U.S.C. § 2254. The court found that the petition named an improper respondent and failed to state a cognizable federal habeas claim. The court granted Petitioner 30 days to file a first amended petition or request to stand on the existing petition.

CASE DETAILS

COURT	United States District Court for the Eastern District of California
JURISDICTION	United States District Court for the Eastern District of California
DECIDED	August 11, 2025
DOCKET	1:24-cv-01332-CDB (HC)
DISPOSITION	other
PROCEDURAL POSTURE	Initial screening of a state prisoner's pro se petition for a writ of habeas corpus under 28 U.S.C. § 2254.
STANDARD OF REVIEW	Under Rule 4 of the Rules Governing § 2254 Cases, the court preliminarily reviews the petition and must dismiss it if it plainly appears that the petitioner is not entitled to relief. Pro se habeas petitions are liberally construed, but they must allege facts showing a real possibility of constitutional error; vague, conclusory, incredible, or frivolous allegations may be summarily dismissed.
PRECEDENTIAL VALUE	Unpublished, nonprecedential district court screening order
PARTIES	G. Memo Vera v. Kern County Superior Court Psych's

TOPICS

- federal habeas corpus
- post-conviction relief
- pleadings
- personal jurisdiction
- motions to dismiss

PRACTICE AREAS

QUESTIONS PRESENTED

1. Whether the petition was subject to dismissal at preliminary screening because it failed to name a proper habeas respondent.
2. Whether the petition stated a cognizable federal habeas claim under 28 U.S.C. § 2254.
3. Whether petitioner should be granted leave to amend rather than have the action dismissed immediately.

HOLDINGS

1. A petitioner seeking habeas relief must name the officer having custody of the petitioner, ordinarily the warden of the facility where the petitioner is incarcerated; naming the Kern County Superior Court Psych's was insufficient and deprived the court of personal jurisdiction.
2. A state prisoner must allege facts showing that custody violates the Constitution, laws, or treaties of the United States; allegations concerning institutional procedures and psychological evaluations, without showing an effect on the length or legality of confinement, do not state a cognizable federal habeas claim.
3. A deficient habeas petition should not be dismissed without leave to amend when it is not clear that the petitioner cannot plead a tenable claim if given an opportunity to amend.

KEY QUOTATIONS

“Failure to name the proper respondent strips the district court of personal jurisdiction.” (at 2)

“Notice pleading is not sufficient; rather, the petition must state facts that point to a real possibility of constitutional error.” (at 2)

FACTUAL BACKGROUND

G. Memo Vera, a state prisoner proceeding pro se and in forma pauperis, filed a § 2254 petition containing unclear references to fraudulent diagnoses, fraud upon the court, false accusations, psychological evaluations, prison grievances, and various state and federal statutes. The petition named the Kern County Superior Court Psych's rather than the officer having custody of Vera. The court could not discern any claim showing that the challenged institutional procedures or psychological evaluations affected the length or legality of Vera's confinement.

PROCEDURAL HISTORY

Petitioner filed a § 2254 petition on October 31, 2024. The court conducted preliminary screening under Rule 4 of the Rules Governing § 2254 Cases and found that the petition named an improper respondent and failed to state a cognizable federal habeas claim. Rather than immediately dismissing the action, the court granted petitioner 30 days to file an amended petition or request to stand on the petition.

DISPOSITION

CASES CITED

- Haines v. Kerner, 404 U.S. 519, 520-21 (1972)
- Hendricks v. Vasquez, 908 F.2d 490, 491 (9th Cir.)
- Mayle v. Felix, 545 U.S. 644, 655 (2005)
- Jarvis v. Nelson, 440 F.2d 13, 14 (9th Cir.)
- Ortiz-Sandoval v. Gomez, 81 F.3d 891, 894 (9th Cir.)
- Sky v. Stolc, 497 F. App'x 696, 696 (9th Cir.)

OPINION

(HC) Vera v. Kern County Superior Court Psych's

PER CURIAM.

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8 UNITED STATES DISTRICT COURT

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EASTERN DISTRICT OF CALIFORNIA

10 11 G MEMO VERA, Case No. 1:24-cv-01332-CDB (HC) 12 Petitioner, FIRST SCREENING
ORDER

13 v. 30-DAY DEADLINE

14 KERN COUNTY SUPERIOR COURT (Doc. 1)

PSYCH'S,

15 Respondent. 16

17 18 Petitioner G. Memo Vera ("Petitioner"), a state prisoner, proceeds pro se and in forma 19
pauperis with a petition for writ of habeas corpus pursuant to 28 U.S.C. § 2254. (Doc. 1). A 20
preliminary screening of the petition reveals it fails to name a proper respondent and fails to state a
21 cognizable claim. However, the Court concludes Petitioner should be allowed an opportunity to
file 22 an amended petition to correct these deficiencies, to the extent he can do so in good faith.
23 Background 24 Petitioner filed his petition for writ of habeas corpus on October 31, 2024,
using the standard 25 form for § 2254 petitions. (Doc. 1). However, many of Petitioner's responses
are confusing and 26 unclear. For instance, rather than indicating the length of his sentence or the
nature of the offenses 27 involved, Petitioner lists "Fraudulent Diagnostics" and "Exonerated in
the furtherance of Justice." (Id. 28 at 1). As to his first ground for relief, Petitioner lists "Fraud
upon the Court 18 U.S.C.S. § 1621, Pen. 1 Code § 118, Cal. Bus & Prof. Code § 4805." (Id. at 4).
As supporting facts, Petitioner states: 2 Psych Gary Longwith made a report per fraudem page 9
line 12-19. Remedies Exhausted page 11 line 19-20 Subject matter jurisdiction page 3 10 line 10-
12 False Accusation page 14 line 7-9, Sanction Filed page 16 Dr.'s Opinion contrary to CDCDr.

pag 18, Complaint with the Psych 4 Board. pag 19, the Fraudulent Scheme page 21. Bus & Prof. Code § 6411(a)(c)(d)(e) Cal. Civ. Code § 1624(b)(1)(B)(I)(3)(D). 5 6 (Id.). Petitioner's additional three grounds for relief are similarly unclear but include vague assertions 7 of fraud by correctional officers and "psych" professionals. (Id. at 4-5). Attached to the petition are 8 multiple exhibits, including a copy of a California Supreme Court order denying Petitioner's petition 9 for review on habeas corpus; various letters and filings addressed to the state courts; psychological 10 evaluations; and documents concerning prison grievance appeals. (Id. at 7-43). 11 Preliminary Screening

12 Rule 4 of the Rules Governing § 2254 requires the Court to conduct a preliminary review of 13 each petition for writ of habeas corpus. Habeas corpus petitions by pro se petitioners are to be 14 liberally construed. *Haines v. Kerner*, 404 U.S. 519, 520-21 (1972). However, the Court must dismiss 15 a petition "[i]f it plainly appears from the petition...that the petitioner is not entitled to relief." Habeas

16 Rule 4; see *Hendricks v. Vasquez*, 908 F.2d 490, 491 (9th Cir. 1990) (quoting Rule 4). Habeas Rule

17 2(c) requires that a petition 1) specify all grounds of relief available; 2) state the facts supporting each 18 ground; and 3) state the relief requested. Notice pleading is not sufficient; rather, the petition must 19 state facts that point to a real possibility of constitutional error. *Mayle v. Felix*, 545 U.S. 644, 655 20 (2005). Allegations in a petition that are vague, conclusory, palpably incredible, or patently frivolous 21 are subject to summary dismissal. *Hendricks*, 908 F.2d at 491. A petition for writ of habeas corpus 22 should not be dismissed without leave to amend unless it appears that no tenable claim for relief can 23 be pleaded were such leave to be granted. *Jarvis v. Nelson*, 440 F.2d 13, 14 (9th Cir. 1971). 24 Discussion 25 As an initial matter, Petitioner failed to name a proper respondent. A petitioner seeking habeas 26 corpus relief must name the officer having custody of him as the respondent to the petition. Habeas

27 Rule 2(a); *Ortiz-Sandoval v. Gomez*, 81 F.3d 891, 894 (9th Cir. 1996). "Typically, this person is the

28 warden of the facility in which the petitioner is incarcerated." *Ortiz-Sandoval*, 81 F.3d at 894. 1 Alternatively, the Habeas Rules indicate "the chief officer in charge of state penal institutions" may 2 also be considered a proper respondent. Id. (citing Habeas Rule 2(a) advisory committee notes). 3 "Failure to name the proper respondent strips the district court of personal jurisdiction." *Sky v. Stolc*, 4 497 F. App'x 696, 696 (9th Cir. 2012) (citing *Ortiz-Sandoval*, 81 F.3d at 894). Here, Petitioner has 5 named the Kern County Superior Court Psych's rather than the officer having custody of him. Thus, 6 Petitioner has failed to name a proper respondent, and this failure deprives the Court of personal 7 jurisdiction. *Sky*, 497 F. App'x at 696. 8 Further, Petitioner fails to state a cognizable federal habeas claim. Federal habeas relief is only 9 warranted when a state prisoner is "in custody in violation of the Constitution or laws or treaties of the 10 United States." 28 U.S.C. § 2254. Having reviewed the petition and all the attachments, the 11 undersigned is

unable to discern what, if any, argument Petitioner is attempting to raise as to why his 12 confinement violates federal law. Petitioner appears to challenge institutional procedures and 13 psychological evaluations without any indication of how such have impacted the length of his 14 confinement. Accordingly, he has failed to state a cognizable federal habeas claim and the petition is 15 subject to dismissal. 16 However, because it is not clear that Petitioner cannot correct these deficiencies, Petitioner will 17 be granted an opportunity to file an amended petition. Petitioner is advised that he should caption his 18 pleading "First Amended Petition" and should use the instant case number. Petitioner is further 19 advised that pursuant to Local Rule 220, the First Amended Petition must be "complete in itself" 20 without reference to the initial petition. Failure to comply with this order will result in a 21 recommendation that this action be dismissed. 22 Conclusion and Order 23 For the reasons discussed, Petitioner's petition for writ of habeas corpus is deficient and 24 subject to dismissal. However, Petitioner will be granted an opportunity to file an amended petition 25 addressing the deficiencies to the extent he can do so in good faith. See Fed. R. Civ. P. 15(a) (leave to 26 amend shall be freely given when justice so requires). 27 /// 28 1 In the alternative to filing an amended petition, if Petitioner wishes to stand on his petition as 2 || screened, he shall file a request to stand on the petition, in which event the undersigned will 3 || recommend the petition be dismissed due to the deficiencies noted above. 4 Accordingly, it is ORDERED: 5 1. The Clerk of the Court is DIRECTED to send Petitioner a blank copy of the form Petition

6 Under 28 USC § 2254 for Writ of Habeas Corpus by a Person in State Custody; and

7 2. Petitioner is GRANTED 30 days from the date of service of this order to file either a first 8 amended petition or a request to stand on the petition as screened. 9 IS SO ORDERED. 10 | }) Bo

Dated: _ August 11, 2025

11 UNITED STATES MAGISTRATE JUDGE

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