

**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.

OPINION

1 2 3 4 5 6 7 8 UNITED STATES DISTRICT COURT 9 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 12 13 14 15 16 17 18 19 20 21 22 23 24 25 26 27 28