

UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF
CALIFORNIA

William Henry Thomas v. Warden, Folsom State Prison

Thomas v. Warden · No. 2:23-cv-02741-DAD-EFB (HC) · Decided August 18, 2025

OPINION

(HC) Thomas v. Warden of Folsom State Prison

PER CURIAM.

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8 UNITED STATES DISTRICT COURT

9 FOR THE EASTERN DISTRICT OF CALIFORNIA

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11 WILLIAM HENRY THOMAS, No. 2:23-cv-02741-DAD-EFB (HC)

12 Petitioner, ORDER ADOPTING FINDINGS AND

RECOMMENDATIONS, GRANTING

13 v. RESPONDENT’S MOTION TO DISMISS IN

PART, GRANTING PETITIONER’S

14 WARDEN, FOLSOM STATE PRISON, MOTIONS TO STAY, DENYING

PETITIONER’S MOTION FOR

15 Respondent. APPOINTMENT OF COUNSEL, AND

DENYING PETITIONER’S REMAINING

16 MOTIONS AS MOOT

17 (Doc. Nos. 15, 18, 22, 24, 25, 26) 18 19 Petitioner, a state prisoner proceeding pro se and in
forma pauperis, filed an application 20 for a writ of habeas corpus pursuant to 28 U.S.C. § 2254.
The matter was referred to a United 21 States Magistrate Judge pursuant to 28 U.S.C. § 636(b)(1)
(B) and Local Rule 302. 22 On June 13, 2025, the assigned magistrate judge issued findings and
recommendations 23 recommending that: (1) respondent’s motion to dismiss (Doc. No. 18) be
granted in part, and that 24 claims two through six in petitioner’s first amended petition be
dismissed without prejudice; (2) 25 claim one in petitioner’s first amended petition be stayed
under Kelly v. Small, 315 F.3d at 1063, 26 070-71 (9th Cir. 2002); (3) petitioner’s motion for
appointment of counsel (Doc. No. 25) be 27 denied without prejudice; (4) petitioner’s motion for
copy of his file (Doc. No. 25) be denied as 28 moot. (Doc. No. 26.) 1 The pending findings and
recommendations were served on the parties and contained 2 notice that any objections thereto
were to be filed within fourteen (14) days after service. (Id. at 3 3.) To date, no objections to the
findings and recommendations have been filed, and the time in 4 which to do so has now passed. 5
In accordance with the provisions of 28 U.S.C. § 636(b)(1)(C), this court has conducted a 6 de

novo review of the case. Having carefully reviewed the entire file, the court concludes that the 7 findings and recommendations are supported by the record and by proper analysis. 8 Accordingly: 9 1. The findings and recommendations (Doc. No. 26) are adopted in full; 10 2. Respondent's motion to dismiss (Doc. No. 18) is GRANTED IN PART such that 11 petitioner's claims 2-6 are dismissed without prejudice; 12 3. Petitioner's motions for a stay under Kelly v. Smalls, 315 F.3d 1063, 1070-71 (9th Cir. 13 2002) (Doc. Nos. 22, 24) are GRANTED, and consideration of claim 1 is hereby 14 stayed pending exhaustion of claims 2-6 in the state courts; 15 4. Petitioner shall pursue exhaustion of claims 2-6 by submitting a petition in the 16 California Supreme Court within 30 days of the date of this order; 17 5. Petitioner shall file a motion to lift the stay and a request to file an amended petition 18 including his newly exhausted claims within 30 days of exhaustion; 19 6. Respondent shall file and serve either an answer or a motion in response to petitioner's 20 petition within 60 days from the date of filing of the second amended (fully exhausted) 21 petition. See Rule 4, Rules Governing § 2254 Cases. Any response shall be 22 accompanied by any and all transcripts or other documents relevant to the 23 determination of the issues presented in the application. See Rules 4, 5, Rules 24 Governing § 2254 Cases. 25 7. Petitioner's reply, if any, shall be filed and served within 30 days of service of an 26 answer. 27 8. If the response to petitioner's application is a motion, petitioner's opposition or 28 statement of non-opposition shall be filed and served within 30 days of service of the 1 motion, and respondent's reply, if any, shall be filed within 14 days thereafter. 2 9. Petitioner's motion for appointment of counsel (Doc. No. 25) is DENIED; 3 10. Petitioner's request that the attorney general be required to respond to the petition 4 (Doc. No. 15) is DENIED as having been rendered moot and the Clerk of the Court is 5 directed to terminate that motion in its entirety; and 6 11. Petitioner's request for a copy of the docket (Doc. No. 25) is also DENIED as having 7 been rendered moot. 8 IT IS SO ORDERED. | Dated: _ August 15, 2025 Daa A. 2, sel

10 DALE A. DROZD

UNITED STATES DISTRICT JUDGE

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