

UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF
CALIFORNIA

Ihab Nadhim Kifah v. John Zaroni, Sheriff

Kifah v. Sheriff · No. 1:24-cv-00856-JLT-SKO (HC) · Decided March 4, 2025

SUMMARY

The United States District Court for the Eastern District of California recommends granting the respondent’s motion to dismiss a state pretrial detainee’s habeas petition. The court concludes that it lacks jurisdiction under 28 U.S.C. §§ 2254 and 2241 because the petitioner is in state custody and a federal detainer does not establish federal custody, and it also finds the claims unexhausted.

CASE DETAILS

COURT	United States District Court for the Eastern District of California
WRITING FOR THE COURT	Sheila K. Oberto
JURISDICTION	United States District Court for the Eastern District of California
DECIDED	March 4, 2025
DOCKET	1:24-cv-00856-JLT-SKO (HC)
DISPOSITION	dismissed
PROCEDURAL POSTURE	Petitioner, a state pretrial detainee proceeding pro se, filed a petition for a writ of habeas corpus under 28 U.S.C. § 2254 challenging a federal detainer. Respondent moved to dismiss for lack of jurisdiction and failure to exhaust state remedies. The magistrate judge issued findings and a recommendation that the motion be granted and the petition dismissed.
STANDARD OF REVIEW	The court reviewed the pleadings and considered whether subject-matter jurisdiction existed under 28 U.S.C. §§ 2254 and 2241 and whether available state remedies had been exhausted.
PRECEDENTIAL VALUE	nonprecedential
PARTIES	Ihab Nadhim Kifah v. John Zaroni, Sheriff

TOPICS

- federal habeas corpus
- habeas corpus
- post-conviction relief
- bail
- criminal procedure

PRACTICE AREAS

federal habeas corpus

post-conviction relief

criminal procedure

constitutional law

QUESTIONS PRESENTED

1. Whether a state pretrial detainee may obtain habeas relief under 28 U.S.C. § 2254 when he is not held pursuant to a state-court judgment.
2. Whether a federal detainer, standing alone, places a state detainee in federal custody sufficient to establish jurisdiction under 28 U.S.C. § 2241.
3. Whether the petition should be dismissed for failure to exhaust available state remedies.

HOLDINGS

1. A state pretrial detainee is not held pursuant to a state-court judgment and therefore cannot invoke 28 U.S.C. § 2254 jurisdiction on that basis.
2. A federal detainer or hold, without more, does not place a state detainee in federal custody for purposes of § 2241; therefore, the court lacked jurisdiction over Kifah's petition.
3. The petition was unexhausted because Kifah had not presented his claims to the available California appellate courts or the California Supreme Court.

KEY QUOTATIONS

“Because Petitioner is a pretrial detainee, he is not being held “pursuant to the judgment of a State court.””
(at 1)

“A federal detainer is also insufficient to establish federal custody.” (at 3)

“For the foregoing reasons, the Court RECOMMENDS that Respondent’s motion to dismiss be GRANTED and the petition for writ of habeas corpus be DISMISSED for lack of jurisdiction and failure to exhaust state remedies.” (at 4)

FACTUAL BACKGROUND

Kifah was a state pretrial detainee held at the Fresno County Jail. He challenged a federal detainer lodged by the United States Marshals Service and sought its removal so that he could pursue pretrial bail release. He had not demonstrated that he sought relief in the California appellate courts or Supreme Court.

PROCEDURAL HISTORY

Kifah filed the habeas petition on July 25, 2024, while detained at the Fresno County Jail. The petition challenged a detainer lodged by the United States Marshals Service and sought removal of the detainer so Kifah could seek pretrial bail release. Respondent moved to dismiss on December 20, 2024. Kifah did not reply, and the magistrate judge recommended dismissal for lack of jurisdiction and failure to exhaust state remedies, subject to objections and review by the assigned district judge.

DISPOSITION

dismissed

CASES CITED

- Braden v. Judicial Circuit Court, 410 U.S. 484, 503 (1973)
- Jacobs v. McCaughtry, 251 F.3d 596, 597 (7th Cir. 2001)
- Bingaman v. Warden, El Dorado Cnty. Jail, 2023 WL 7338852, at *1 (E.D. Cal. 2023)
- Bingaman v. Warden, 2023 WL 8452775 (E.D. Cal. 2023)
- Garcia v. Taylor, 40 F.3d 299, 303 (9th Cir. 1994)
- Carter v. Uribe, 2010 WL 234803, at *2 (C.D. Cal. 2010)
- Campos v. INS, 62 F.3d 311, 313 (9th Cir. 1995)
- Rose v. Lundy, 455 U.S. 509, 518-22 (1982)
- Gatlin v. Madding, 189 F.3d 882, 888 (9th Cir. 1999)
- Duncan v. Henry, 513 U.S. 364, 365-66 (1995)
- Toft v. D'Agostini, 2022 WL 1433525, at *1-2 (E.D. Cal. 2022)
- Sinclair v. Shaber, 2023 WL 5280144, at *2 (E.D. Cal. 2023)
- Wilkerson v. Wheeler, 772 F.3d 834, 838-39 (9th Cir. 2014)

OPINION

(HC) Kifah v. Sheriff

PER CURIAM.

1 2 3 4 5 6 7

8 UNITED STATES DISTRICT COURT

9 FOR THE EASTERN DISTRICT OF CALIFORNIA

10

11 IHAB NADHIM KIFAH, No. 1:24-cv-00856-JLT-SKO (HC)

12 Petitioner, FINDINGS AND RECOMMENDATION

TO GRANT MOTION TO DISMISS

13 v. [Doc. 14] 14

JOHN ZANONI, SHERIFF, [TWENTY-ONE DAY DEADLINE]

15 Respondent. 16

17 Petitioner is a state pretrial detainee proceeding pro se with a petition for writ of habeas 18
corpus pursuant to 28 U.S.C. § 2254. 19 On July 25, 2024, Petitioner filed the instant § 2254
petition in this Court. (Doc. 1.) He is 20 in pretrial custody at the Fresno County Jail challenging a
detainer lodged against him by the U.S. 21 Marshals Service. On December 20, 2024, Respondent
filed a motion to dismiss the petition for 22 lack of jurisdiction and for failure to exhaust state
remedies. (Doc. 14.) Petitioner did not file a 23 reply. 24 Upon review of the pleadings, the Court
finds that it lacks jurisdiction to grant the relief 25 Petitioner seeks. In addition, the claims are

unexhausted. Therefore, the Court will recommend Respondent's motion to dismiss be GRANTED and the petition be DISMISSED. 27 //// 28 ////

1 DISCUSSION

2 Title 28 U.S.C. § 2254(a) provides that "a district court shall entertain an application for a
3 writ of habeas corpus on behalf of a person in custody pursuant to the judgment of a State court.
. 4 . ." (emphasis added.) Because Petitioner is a pretrial detainee, he is not being held "pursuant to
5 the judgment of a State court." Thus, Respondent is correct that the Court lacks jurisdiction
under 6 § 2254. 7 Petitioner's claim instead falls under 28 U.S.C. § 2241. See *Braden v. Judicial*
Circuit 8 Court, 410 U.S. 484, 503 (1973) (Rehnquist, J., dissenting) ("Section 2254 pertains only
to a 9 prisoner in custody pursuant to a judgment of conviction of a state court; The issue here
is 10 whether habeas corpus is warranted under § 2241(c)(3); that section empowers district courts
to 11 issue the writ, inter alia, before a judgment is rendered in a criminal proceeding."); *Jacobs v.*
12 *McCaughtry*, 251 F.3d 596, 597 (7th Cir.2001) (explaining that a state court defendant attacking
13 his pretrial detention should bring a habeas petition under 28 U.S.C. § 2241); *Bingaman v. 14*
Warden, El Dorado Cnty. Jail, 2023 WL 7338852, at *1 (E.D. Cal. 2023), report and 15
recommendation adopted sub nom. *Bingaman v. Warden*, 2023 WL 8452775 (E.D. Cal. 2023) 16
("District courts have jurisdiction under section 2241 to consider habeas petitions brought by 17
pretrial detainees").

18 Section 2241 permits habeas review for federal prisoners "in custody in violation of the
19 Constitution or laws or treaties of the United States." 28 U.S.C. § 2241(c)(3). Petitioner is not a
20 federal prisoner, but his complaint involves a federal detainer. He asks that this Court lift the 21
detainer so that he may seek pretrial bail release. Even under § 2241, however, the Court lacks 22
jurisdiction. 23 Pursuant to § 2241(c): 24 The writ of habeas corpus shall not extend to a prisoner
unless-- 25 (1) He is in custody under or by color of the authority of the United States or is
committed for trial before some court thereof; or 26

(2) He is in custody for an act done or omitted in pursuance of an Act of Congress,
27 or an order, process, judgment or decree of a court or judge of the United States; or 28 (3) He is
in custody in violation of the Constitution or laws or treaties of the 1 United States; or 2 (4) He,
being a citizen of a foreign state and domiciled therein is in custody for an act done or omitted
under any alleged right, title, authority, privilege, protection, 3 or exemption claimed under the
commission, order or sanction of any foreign state, or under color thereof, the validity and effect
of which depend upon the law 4 of nations; or 5 (5) It is necessary to bring him into court to testify
or for trial. 6 As Respondent notes, Petitioner does not fall into any of these categories, as he is 7
currently in state custody. A federal detainer is also insufficient to establish federal custody. See 8
Garcia v. Taylor, 40 F.3d 299, 303 (9th Cir. 1994) (a "bare detainer letter alone does not 9
sufficiently place an alien in INS custody to make habeas corpus available"); *Carter v. Uribe*, 10
2010 WL 234803, at *2 (C.D. Cal. 2010) ("A detainer letter or 'hold' are insufficient to place 11
petitioner in federal custody for habeas corpus purposes"); *Campos v. INS*, 62 F.3d 311, 313 (9th

12 Cir. 1995) (same). Thus, the Court is without jurisdiction to proceed under § 2241.

13 Furthermore, Petitioner has not demonstrated exhaustion of state remedies. As a matter of 14
comity, a federal court will generally not grant habeas relief to a state prisoner who has not 15
exhausted the available state judicial remedies. *Rose v. Lundy*, 455 U.S. 509, 518-22 (1982). 16
Exhaustion requires presentation of a petitioner’s claims to the state court, “even if that court’s 17
review is discretionary.” *Gatlin v. Madding*, 189 F.3d 882, 888 (9th Cir. 1999); see also *Duncan* 18
v. Henry, 513 U.S. 364, 365-66 (1995). Although it is an open question in this circuit whether a 19
pretrial detainee seeking relief under § 2241 relief must first exhaust his state remedies, “courts in
20 this district have generally held that requiring exhaustion of section 2241 claims is the most 21
prudent option.” *Bingaman*, 2023 WL 7338852, at *1; *Toft v. D’Agostini*, 2022 WL 1433525, at 22
*1-2 (E.D. Cal. 2022); *Sinclair v. Shaber*, 2023 WL 5280144, *2 (E.D. Cal. 2023). Here, 23
Petitioner has not exhausted his state remedies by seeking relief in the appellate court or 24
California Supreme Court. Thus, the Court finds that the petition is unexhausted as well.

25 RECOMMENDATION

26 For the foregoing reasons, the Court RECOMMENDS that Respondent’s motion to 27 dismiss
be GRANTED and the petition for writ of habeas corpus be DISMISSED for lack of 28
jurisdiction and failure to exhaust state remedies. 1 This Findings and Recommendation is
submitted to the United States District Court Judge 2 assigned to the case, pursuant to the
provisions of 28 U.S.C. § 636 (b)(1)(B) and Rule 304 of the 3 Local Rules of Practice for the
United States District Court, Eastern District of California. Within 4 twenty-one (21) days after
being served with a copy of this Findings and Recommendation, a 5 party may file written
objections with the Court and serve a copy on all parties. *Id.* The document 6 should be captioned,
“Objections to Magistrate Judge’s Findings and Recommendation” and shall 7 not exceed fifteen
(15) pages, except by leave of court with good cause shown. The Court will not 8 consider exhibits
attached to the Objections. To the extent a party wishes to refer to any 9 exhibit(s), the party
should reference the exhibit in the record by its CM/ECF document and page 10 number, when
possible, or otherwise reference the exhibit with specificity. Any pages filed in 11 excess of the
fifteen (15) page limitation may be disregarded by the District Judge when 12 reviewing these
Findings and Recommendations pursuant to 28 U.S.C. § 636 (b)(1)(C). The 13 parties are advised
that failure to file objections within the specified time may result in the waiver 14 of rights on
appeal. *Wilkerson v. Wheeler*, 772 F.3d 834, 838-39 (9th Cir. 2014). This 15 recommendation is
not an order that is immediately appealable to the Ninth Circuit Court of 16 Appeals. Any notice of
appeal pursuant to Rule 4(a)(1), Federal Rules of Appellate Procedure, 17 should not be filed until
entry of the District Court’s judgment. 18 IT IS SO ORDERED. 19 20 Dated: March 3, 2025 /s/
Sheila K. Oberto .

UNITED STATES MAGISTRATE JUDGE

21 22 23 24 25 26 27 28

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