

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

Blanc v. Taylor

Blanc · No. 1:24-cv-01369-SAB-HC · Decided April 22, 2025

OPINION

1 2 3 4 5 6 7 UNITED STATES DISTRICT COURT 8 EASTERN DISTRICT OF CALIFORNIA
9 10 LUKNER BLANC, Case No. 1:24-cv-01369-SAB-HC 11 Petitioner, FINDINGS AND
RECOMMENDATION TO GRANT RESPONDENT’S MOTION TO 12 v. DISMISS AND
DISMISS PETITION FOR WRIT OF HABEAS CORPUS 13 T. TAYLOR, (ECF No. 8) 14
Respondent. ORDER DIRECTING CLERK OF COURT 15 TO RANDOMLY ASSIGN
DISTRICT JUDGE 16 17 Petitioner is a federal prisoner proceeding pro se with a petition for writ
of habeas corpus 18 pursuant to 28 U.S.C. § 2241.

19 I. 20 BACKGROUND 21 Petitioner is in the custody of the Federal Bureau of Prisons
(“BOP”) at the Federal 22 Correctional Institution in Mendota, California (“FCI Mendota”),
serving a sentence imposed by 23 the United States District Court for the Southern District of
Florida. (ECF No. 1 at 1.1) On 24 January 24, 2024, an incident report was issued for possessing a
hazardous tool, in violation of 25 BOP Disciplinary Code 108.

(ECF No. 8-1 at 3, 20.) On February 13, 2024, a Disciplinary 26 Hearing Officer (“DHO”) held a
hearing and found Petitioner guilty of the charge. (ECF No. 8-1 27 at 4, 24–27.) The DHO report
was issued on July 15, 2024. (Id. at 27) 1 On November 7, 2024, Petitioner filed the instant
petition for writ of habeas corpus, 2 asserting the following claims for relief: (1) the falsification
of Petitioner’s signature by Unit 3 Discipline Committee (“UDC”) personnel on documentation;
(2) the UDC’s failure to properly 4 investigate the charge; and (3) the failure to provide Petitioner
with a copy of the DHO report.

5 (ECF No. 1 at 6.) On January 17, 2025, Respondent filed a motion to dismiss the petition. (ECF
6 No. 8.) To date, Petitioner has not filed an opposition or statement of nonopposition to the 7
motion to dismiss, and the time for doing so has passed. 8 II. 9 DISCUSSION 10 A. Due Process
Protections in Prison Disciplinary Proceedings 11 “The Supreme Court established in *Wolff v.*
McDonnell that there are procedural due 12 process rights that a prisoner must be afforded in the
context of a prison disciplinary proceeding 13 prior to being deprived of a protected liberty
interest.” *Melnik v. Dzurenda*, 14 F.4th 981, 985 14 (9th Cir.

2021). However, “[p]rison disciplinary proceedings are not part of a criminal 15 prosecution, and
the full panoply of rights due a defendant in such proceedings does not apply.” 16 *Wolff v.*
McDonnell, 418 U.S. 539, 556 (1974).

The minimum procedural requirements that 17 must be met are: (1) written notice of the charges; (2) at least 24 hours between the time the 18 prisoner receives written notice and the time of the hearing, so that the prisoner may prepare his 19 defense; (3) a written statement by the fact finders of the evidence they rely on and reasons for 20 taking disciplinary action; (4) the right of the prisoner to call witnesses and present documentary 21 evidence in his defense, when permitting him to do so would not be unduly hazardous to 22 institutional safety or correctional goals; and (5) assistance to the prisoner where the prisoner is 23 illiterate or the issues presented are legally complex.

Id. at 563–71. In addition, “some evidence” 24 must support the decision of the hearing officer, *Superintendent v. Hill*, 472 U.S. 445, 455 25 (1985), and the evidence must have some indicia of reliability, *Cato v. Rushen*, 824 F.2d 703, 26 705 (9th Cir. 1987). 27 /// 1 B. Claims Regarding the UDC 2 In his first two claims for relief, Petitioner asserts various deficiencies with respect to the 3 UDC process.

(ECF No. 1 at 6.) However, as the UDC process² cannot be used to revoke an 4 inmate’s good conduct credit, 28 C.F.R. §§ 541.7(f),³ there is no deprivation of a protected 5 liberty interest and Petitioner fails to state a cognizable due process claim. See *Brennan v. United 6 States*, 646 F. App’x 662, 667 (10th Cir. 2016) (“[T]here was no due process violation because 7 UDC hearings may not be used to revoke an inmate’s good-time credit,” and “Wolff due process 8 requirements do not apply to UDC hearings.”); *Barbour v. Matevousian*, No. 1:17-cv-00965-JLT 9 (HC), 2018 WL 1941640, at *3 (E.D.

Cal. Apr. 25, 2018) (“The UDC hearing is irrelevant on 10 federal habeas review.”). 11 C. Alleged Failure to Provide Petitioner with a Copy of the DHO Report 12 In his third claim for relief, Petitioner alleges that staff failed to provide him a copy of the 13 DHO report and thus he was “limited [in defending] himself against fraudulent incident report.” 14 (ECF No. 1 at 6.)

The DHO report itself has a notation that the report was delivered to Petitioner 15 on July 15, 2024, at 12:16 p.m. (ECF No. 8-1 at 27.) In its denial of relief, dated July 23, 2024, 16 the Western Regional Office stated, “We have taken the liberty to provide you with a copy of 17 your DHO Report.” (ECF No. 1 at 14; ECF No. 8-1 at 189.) Petitioner has submitted a copy of 18 an administrative appeal in which he complains of not receiving the DHO report, but that appeal 19 is dated March 28, 2024, which predates the completion of the DHO report.

20 Although Petitioner alleges that staff failed to provide him a copy of the DHO report, the 21 undisputed⁴ record before this Court is that Petitioner was provided a copy of the DHO report on 22 July 15, 2024, and July 23, 2024. (ECF No. 8-1 at 18, 27.) It appears that Petitioner’s complaint 23 2 “The discipline process starts when staff witness or reasonably believe that [the inmate] committed a prohibited 24 act.

A staff member will issue [the inmate] an incident report describing the incident and the prohibited act(s) [the inmate is] charged with committing.” 28 C.F.R. § 541.5(a). After the inmate receives an incident report, a staff 25 member will investigate it. 28 C.F.R. § 541.5(b). “A Unit Discipline Committee (UDC) will review the incident report once the staff investigation is complete.” 28 C.F.R. § 541.7.

The UDC may refer the incident report to “the Discipline Hearing Officer (DHO) for further review, based on the seriousness of the prohibited act(s) charged.” 28 26 C.F.R. § 541.7 (a)(3). 3 “If you committed a prohibited act or prohibited acts, the UDC can impose any of the available sanctions in Tables 27 1 and 2 of § 541.3, except loss of good conduct time credit, FSA Time Credits, disciplinary segregation, or monetary fines.” 28 C.F.R. § 541.7(f).

1 is that he was not provided a copy of the DHO report within the fifteen workday period provided 2 for in BOP Program Statement 5270.09. However, a prisoner’s “right to due process [i]s violated 3 only if he was not provided with process sufficient to meet the Wolff standard,” and due process 4 does not “require[] the prison to comply with its own, more generous procedures.” Walker v. 5 Sumner, 14 F.3d 1415, 1420 (9th Cir.

1994), abrogated on other grounds by Sandin v. Conner, 6 515 U.S. 472 (1995). “A habeas claim cannot be sustained based solely upon the BOP’s 7 purported violation of its own program statement because noncompliance with a BOP program 8 statement is not a violation of federal law.” Reeb v. Thomas, 636 F.3d 1224, 1227 (9th Cir. 9 2011).

Accordingly, the Court finds that Petitioner fails to state a cognizable due process claim 10 with respect to the delay in providing him with a copy of the DHO report. See Proctor v. 11 Warden, FCI Mendota, No. 24-7137, 2025 WL 618746, at *1 (9th Cir. Feb. 26, 2025) (“Proctor 12 contends that his procedural due process rights were violated by the failure of the Bureau of 13 Prisons (“BOP”) to provide him with the Disciplinary Hearing Officer’s report within the 14 timeframe specified by a BOP program statement.

However, as the district court correctly 15 concluded, the alleged failure to comply with a deadline imposed by a BOP program statement is 16 not a cognizable claim for § 2241 habeas relief.”). 17 III. 18 RECOMMENDATION & ORDER 19 Based on the foregoing, the Court HEREBY RECOMMENDS that: 20 1. Respondent’s motion to dismiss (ECF No. 8) be GRANTED; and 21 2.

The petition for writ of habeas corpus be DISMISSED. 22 Further, the Clerk of Court is DIRECTED to randomly assign this action to a District 23 Judge. 24 This Findings and Recommendation is submitted to the assigned United States District 25 Court Judge, pursuant to the provisions of 28 U.S.C. § 636 (b)(1)(B) and Rule 304 of the Local 26 Rules of Practice for the United States District Court, Eastern District of California.

Within 27 THIRTY (30) days after service of the Findings and Recommendation, any party may file 1 | exhibits. Such a document should be captioned “Objections to Magistrate Judge’s Findings and 2 | Recommendation.” Replies to the objections shall be served and filed within fourteen (14) days 3 | after service of the objections.

The assigned United States District Court Judge will then review 4 | the Magistrate Judge’s ruling pursuant to 28 U.S.C. § 636(b)(1)(C). The parties are advised that 5 | failure to file objections within the specified time may waive the right to appeal the District 6 | Court’s order. *Wilkerson v. Wheeler*, 772 F.3d 834, 839 (9th Cir. 2014) (citing *Baxter v. 7 | Sullivan*, 923 F.2d 1391, 1394 (9th Cir.

1991)). 8 9 IT IS SO ORDERED. FA. Se 10 | Dated: _ April 22, 2025 STANLEY A. BOONE 1]
United States Magistrate Judge 12 13 14 15 16 17 18 19 20 21 22 23 24 25 26 27 28