

UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF
CALIFORNIA

Otiniano v. Macomber

Otiniano · No. 3:24-cv-1230-CAB-LR · Decided March 21, 2025

SUMMARY

The United States District Court for the Southern District of California declined to reopen Alberto Otiniano’s habeas action after he failed to timely pay the filing fee. The court held that the petition challenged only fines and fees, which did not establish the required nexus between the claims and the legality or duration of custody under 28 U.S.C. § 2254(a), and dismissed the case for lack of jurisdiction. The court also declined to issue a certificate of appealability and directed the Clerk to close the file.

CASE DETAILS

COURT	United States District Court for the Southern District of California
WRITING FOR THE COURT	Cathy Ann Bencivengo
JURISDICTION	United States District Court for the Southern District of California
DECIDED	March 21, 2025
DOCKET	3:24-cv-1230-CAB-LR
DISPOSITION	dismissed
PROCEDURAL POSTURE	Petitioner sought to reopen a previously dismissed state-prisoner habeas action after paying the filing fee. The district court declined to reopen the case, dismissed the action for lack of subject-matter jurisdiction, and denied a certificate of appealability.
STANDARD OF REVIEW	For a certificate of appealability, the court applied whether reasonable jurists would find debatable both that the petition stated a valid constitutional claim and that the district court's procedural ruling was correct.
PRECEDENTIAL VALUE	unknown
PARTIES	Alberto Otiniano v. Jeffrey Macomber

TOPICS

- federal habeas corpus
- post-conviction relief
- subject matter jurisdiction
- motions to dismiss
- civil procedure

PRACTICE AREAS

federal habeas corpus

post-conviction relief

civil procedure

subject matter jurisdiction

QUESTIONS PRESENTED

1. Whether the district court had jurisdiction under 28 U.S.C. § 2254(a) over a state prisoner's challenge solely to the imposition of fines and fees.
2. Whether the court should reopen the previously dismissed habeas action after petitioner submitted the filing fee.
3. Whether to issue a certificate of appealability.

HOLDINGS

1. Section 2254(a) does not confer habeas jurisdiction over a state prisoner's challenge to fines and fees that does not directly affect the legality or duration of custody.
2. The court declined to reopen the action because payment of the filing fee could not cure the absence of habeas jurisdiction over the petition's fines-and-fees claims.
3. The court declined to issue a certificate of appealability because reasonable jurists would not find debatable the court's decision to dismiss the petition for lack of jurisdiction.

KEY QUOTATIONS

“The writ of habeas corpus is limited to attacks upon the legality or duration of confinement.” (at 2)

“Section 2254(a) permits a habeas petition to be entertained only on the ground that the petitioner is in custody in violation of the Constitution or laws or treaties of the United States, and “explicitly requires a nexus between the petitioner’s claim and the unlawful nature of the custody.”” (at 2)

“The Court therefore lacks jurisdiction over the Petition and as such it remains dismissed.” (at 2)

“Here, the Court declines to issue a because reasonable jurists would not find the Court’s decision to dismiss the petition for lack of jurisdiction debatable.” (at 3)

FACTUAL BACKGROUND

Petitioner, a state prisoner proceeding pro se, filed a § 2254 petition challenging the imposition of fines and fees. Although he was repeatedly instructed to pay the \$5 filing fee to reopen the case, he initially failed to do so and later submitted a purported filing-fee notice without payment. He ultimately submitted the fee on March 13, 2025, but the court concluded that the petition still challenged only monetary penalties and did not challenge the legality or duration of his custody.

PROCEDURAL HISTORY

Otiniano filed a petition under 28 U.S.C. § 2254 and an application to proceed in forma pauperis. The court denied pauper status and dismissed the case because he could afford the filing fee, later dismissed it again when he failed to pay by the deadline, and declined to reopen the case after he submitted documents that did not

include the fee. After he eventually paid the fee, the court held that the petition challenged only fines and fees rather than the legality or duration of custody, declined to reopen the case, dismissed for lack of jurisdiction, and denied a certificate of appealability.

DISPOSITION

dismissed

CASES CITED

- Crawford v. Bell, 599 F.2d 890, 891 (9th Cir. 1979)
- Hill v. McDonough, 547 U.S. 573, 579 (2006)
- Bailey v. Hill, 599 F.3d 976, 980-82 (9th Cir. 2010)
- Miller-El v. Cockrell, 537 U.S. 322, 335-36 (2003)
- Slack v. McDaniel, 529 U.S. 473, 484 (2000)

OPINION

Otiniano v. Macomber

PER CURIAM.

1 2 3 4 5 6 7 8

9 UNITED STATES DISTRICT COURT

10 SOUTHERN DISTRICT OF CALIFORNIA

11 12 ALBERTO OTINIANO, Case No.: 3:24-cv-1230-CAB-LR 13 Petitioner,

ORDER: (1) RE FINAL DISMISSAL

14 v. OF HABEAS ACTION AND

15

(2) DECLINING TO ISSUE

16 JEFFREY MACOMBER, CERTIFICATE OF

APPEALABILITY

17 Respondent. 18

19 20 On July 15, 2024, Petitioner, a state prisoner proceeding pro se, filed a Petition for 21 Writ
of Habeas Corpus pursuant to 28 U.S.C. § 2254, along with a request to proceed in 22 forma
pauperis (“IFP”). ECF Nos. 1, 2. On July 18, 2024, the Court denied Petitioner’s 23 IFP motion
and dismissed the case because Petitioner’s trust account statement indicated 24 he could afford
the requisite \$5.00 filing fee. ECF No. 3 (citing 28 U.S.C. § 1914(a)). The 25 Court also notified
Petitioner that to have his case reopened he must pay the filing fee by
26 September 9, 2024. See id. Petitioner subsequently submitted two “supplemental
27 documents,” both of which included a copy of a trust account withdrawal request. See ECF
28 Nos. 4, 5. However, the filing fee was not paid and therefore, on December 13, 2024, the
1 Court dismissed the case for failure to pay the filing fee and ordered the Clerk to close the 2 file.

ECF No. 6. See 28 U.S.C. § 1914(a). 3 On February 3, 2025, Petitioner filed a “Notice of Filing Fee,” in which he stated, 4 “enclosed is [the] filing fee for habeas” and asked the Court “reopen” his case. ECF No. 9. 5 But again, Petitioner did not submit the filing fee. Thus, on February 11, 2025, Court 6 notified Petitioner that his case remained closed. ECF No. 10. In the same order, the Court 7 declined to extend time for Petitioner to pay the filing fee because the only claims raised 8 in the Petition challenged the imposition of fines and fees (see ECF No. 1 at 6, 8–9) and 9 “[t]he writ of habeas corpus is limited to attacks upon the legality or duration of 10 confinement.” *Crawford v. Bell*, 599 F.2d 890, 891 (9th Cir. 1979); see also *Hill v. 11 McDonough*, 547 U.S. 573, 579 (2006). 12 Despite the Court’s February 11, 2025 Order, Petitioner submitted the filing fee on 13 March 13, 2025. ECF No. 11. The Court, however, again declines to reopen the case 14 because the claims raised challenge only the imposition of fines and fees. Section 2254(a) 15 permits a habeas petition to be entertained only on the ground that the petitioner is in 16 custody in violation of the Constitution or laws or treaties of the United States, and 17 “explicitly requires a nexus between the petitioner’s claim and the unlawful nature of the 18 custody.” *Bailey v. Hill*, 599 F.3d 976, 980 (9th Cir. 2010). “[T]he elimination or alteration 19 of a money judgment . . . does not directly impact—and is not directed at the source of the 20 restraint on—[Petitioner’s] liberty.” *Id.* at 981. The Court therefore lacks jurisdiction over 21 the Petition and as such it remains dismissed. See *id.* at 982 (concluding “§ 2254(a) does 22 not confer jurisdiction over a state prisoner’s in-custody challenge to a restitution [fine] 23 imposed as part of a criminal sentence”). 24 Additionally, the Court declines to issue a certificate of appealability (“COA”). A 25 petitioner seeking writ of habeas corpus has no absolute right to appeal; he may appeal 26 only in limited circumstances. See 28 U.S.C. § 2253; *Miller-El v. Cockrell*, 537 U.S. 322, 27 335–36 (2003). Rule 11 of the Rules Governing Section 2254 Cases requires that a district 28 court issue or deny a COA when entering a final order adverse to a petitioner. See Ninth 1 || Circuit Rule 22-1(a). A COA should issue only “if jurists of reason would find it debatable 2 || whether the petition states a valid claim of the denial of a constitutional right and that jurists 3 ||of reason would find it debatable whether the district court was correct in its procedural 4 ||ruling.” *Slack v. McDaniel*, 529 U.S. 473, 484 (2000). Here, the Court declines to issue a 5 because reasonable jurists would not find the Court’s decision to dismiss the petition 6 || for lack of jurisdiction debatable.

7 CONCLUSION AND ORDER

8 Based on the foregoing, the case is DISMISSED for lack of jurisdiction and the 9 || Court DECLINES to issue a certificate of appealability. The Clerk of Court shall close the 10 || file. 11 IT IS SO ORDERED. 12 || Dated: March 21, 2025 € ZL 13 Hon. Cathy Ann Bencivengo 14 United States District Judge 15 16 17 18 19 20 21 22 23 24 25 26 27 28