

UNITED STATES DISTRICT COURT FOR THE CENTRAL DISTRICT OF
CALIFORNIA

Daro Kosin v. V. Araiza-Ramirez, Warden

Kosin v. Araiza-Ramirez · No. EDCV 25-0665 AH (SSC) · Decided August 21, 2025

SUMMARY

The United States District Court for the Central District of California accepted and adopted a magistrate judge’s report and recommendation in a federal prisoner’s 28 U.S.C. § 2241 habeas proceeding. The court considered the petitioner’s timely reply and objections but overruled them, except for correcting the report’s statement that no reply had been filed. The court upheld denial of relief concerning First Step Act earned-time credits because the Bureau of Prisons was statutorily prohibited from applying the credits based on the petitioner’s medium recidivism-risk score.

CASE DETAILS

COURT	United States District Court for the Central District of California
WRITING FOR THE COURT	Anne Hwang
JURISDICTION	United States District Court for the Central District of California
DECIDED	August 21, 2025
DOCKET	EDCV 25-0665 AH (SSC)
DISPOSITION	other
PROCEDURAL POSTURE	Federal prisoner petitioned for a writ of habeas corpus under 28 U.S.C. § 2241. The district court reviewed the magistrate judge's report and recommendation, considered the petitioner's objections and reply, overruled the objections except for a minor factual correction, and adopted the report and recommendation.
STANDARD OF REVIEW	De novo review of those portions of the magistrate judge's report and recommendation to which objections were made.
PRECEDENTIAL VALUE	Unpublished district court order; limited persuasive value.
PARTIES	Daro Kosin v. V. Araiza-Ramirez, Warden

TOPICS

- federal habeas corpus
- post-conviction relief
- statutory interpretation
- plain meaning rule

PRACTICE AREAS

Federal habeas corpus

Prisoner litigation

Statutory interpretation

Post-conviction relief

QUESTIONS PRESENTED

1. Whether the district court should consider Kosin's reply despite the report and recommendation's statement that he had not filed one.
2. Whether Kosin was entitled to First Step Act earned-time credits under the Second Chance Act and related statutory-construction arguments despite his medium recidivism-risk score.
3. Whether a federal prisoner proceeding under 28 U.S.C. § 2241 must obtain a certificate of appealability to appeal the denial of the petition.

HOLDINGS

1. A pro se prisoner's pleading is constructively filed when he gives it to prison authorities for mailing, as shown by the date he signs it; therefore, Kosin's reply signed before the court-imposed deadline was timely and had to be considered.
2. Kosin was not entitled to relief under § 2241 because the Bureau of Prisons was statutorily prohibited from applying earned credits to him while he maintained a medium recidivism-risk score.
3. A federal prisoner proceeding under § 2241 generally does not need a certificate of appealability to appeal, unless the petition is merely a disguised § 2255 petition.

KEY QUOTATIONS

“Because the Reply has now been fully considered and it provides no basis for relief, the Objections are OVERRULED except to the extent the Report indicates || Petitioner did not reply to the Answer. With this minor correction, the Court accepts the Report and adopts it as its own findings and conclusions.” (at 2)

FACTUAL BACKGROUND

Kosin, a federal prisoner, sought credit under the First Step Act and the Second Chance Act. The record reflected that he had maintained a medium recidivism-risk score throughout his incarceration. The court accepted the finding that the Bureau of Prisons was statutorily prohibited from applying earned credits to a prisoner with that risk classification.

PROCEDURAL HISTORY

The magistrate judge recommended disposition of Kosin's § 2241 petition after considering the petition and the respondent's answer. Kosin timely signed a reply, but it was docketed after the report and recommendation issued. The district court conducted de novo review of the objected-to portions, considered the reply, corrected the report's statement that no reply had been filed, adopted the report as supplemented, and denied relief on the merits.

DISPOSITION

other

CASES CITED

- United States v. Ramos, 65 F.4th 427, 434 (9th Cir. 2023)
- Wang v. Masaitis, 416 F.3d 992, 1000 (9th Cir. 2005)
- Rumsfeld v. Padilla, 542 U.S. 426, 435 (2004)
- Roberts v. Marshall, 627 F.3d 768, 770 n.1 (9th Cir. 2010)
- Akhtar v. Mesa, 698 F.3d 1202, 1208 (9th Cir. 2012)
- Andrade v. Frauenheim, No. 8:18-CV-00959-JAK-JC, 2020 WL 832267, at *1 (C.D. Cal. Feb. 20, 2020)
- Harrison v. Ollison, 519 F.3d 952, 958 (9th Cir. 2008)
- Tomlinson v. Caraway, No. 14-cv-020094-VBF-KK, 2014 WL 4656432, at *1 (C.D. Cal. Sept. 16, 2014)

OPINION

Daro Kosin v. Warden FCI Victorville II

PER CURIAM.

1 2 3 4 5 6 7

8 UNITED STATES DISTRICT COURT

9 CENTRAL DISTRICT OF CALIFORNIA

10 11 DARO KOSIN, Case No. EDCV 25-0665 AH (SSC) 12 Petitioner

ORDER ACCEPTING REPORT

13 v. AND RECOMMENDATION OF

UNITED STATES MAGISTRATE

14 V. ARAIZA-RAMIREZ, Warden, 1 JUDGE 15 Respondent. 16 17 Pursuant to 28 U.S.C. § 636, the Court has reviewed the Petition (Dkt. 1), 18 Respondent's Answer (Dkt. 13), Petitioner's Reply to the Answer, styled as an 19 "Opposition to Respondent[s] Motion to Dismiss or Deny Petition" (Dkt. 16; 20 "Reply"), the Report and Recommendation of United States Magistrate Judge (Dkt. 21 14; "Report"), Petitioner's Objections to the Report (Dkt. 19; "Objections"), and the 22 other relevant records on file. 23 The Court has engaged in a de novo review of those portions of the Report to 24 which Petitioner has objected. Although not required, the Court briefly discusses the 25 26 1 V. Araiza-Ramirez is the Warden of the Federal Correctional Institution II, in Victorville, California, where Petitioner is housed. Accordingly, the Warden V. 27 Araiza-Ramirez is substituted as the proper Respondent, and the Clerk of the Court is directed to update the docket caption accordingly. See Fed. R. Civ. P. 25(d); 28 Rumsfeld v. Padilla, 542 U.S. 426, 435 (2004); Dkt. 12 at 1 n.1; Dkt. 14 at 1 n.1. 1 following points. See United States v. Ramos, 65 F.4th 427, 434 (9th Cir. 2023) 2 ("the district court ha[s] no obligation to provide individualized analysis of each 3 objection"); Wang v. Masaitis, 416 F.3d 992, 1000 (9th Cir. 2005) (affirming a 4 cursory district court order summarily adopting, without addressing any objections, 5 a magistrate judge's

report and recommendation). 6 Petitioner contends that the Report indicates he did not reply to Respondent's 7 Answer, when he in fact timely did so on June 17, 2025. Dkt. 14 at 2; Dkt. 16; Dkt. 8 19 at 2. 9 The Magistrate Judge provided Petitioner until June 18, 2025, to reply to the 10 Answer. Dkt. 12 at 2. Petitioner signed his Reply June 17, 2025, making it timely.

11 Dkt. 16 at 7; see, e.g., *Roberts v. Marshall*, 627 F.3d 768, 770 n.1 (9th Cir. 2010)

12 (under the "mailbox rule," when a pro se prisoner gives prison authorities a pleading 13 to mail to court, the court deems the pleading constructively "filed" on the date it is 14 signed). Although the Reply was file-stamped June 23, 2025, it was not docketed 15 until July 7, 2025, after the July 3, 2025 Report. Dkts. 14, 16. Accordingly, through 16 no fault of the Magistrate Judge, the Report noted that Petitioner had not filed a 17 reply because it had not yet been docketed. Dkt. 16 at 2. 18 The Court has considered Petitioner's Reply. See, e.g., *Akhtar v. Mesa*, 698 19 F.3d 1202, 1208 (9th Cir. 2012); *Andrade v. Frauenheim*, No. 8:18-CV-00959-JAK- 20 JC, 2020 WL 832267, at *1 (C.D. Cal. Feb. 20, 2020) (noting that if a petitioner 21 wished to make further arguments not made in a reply to an answer, those arguments 22 could be made in objections). In the Reply, Petitioner repeats arguments he made in 23 the Petition regarding the futility of exhaustion of administrative remedies. Dkt. 1 at 24 2-3; Dkt. 16 at 1-2. This provides no basis to disturb the Report because the 25 Magistrate Judge ultimately declined to reach the exhaustion issue and instead 26 turned to the merits. Dkt. 14 at 4. In that regard, Petitioner similarly repeats 27 arguments he made regarding his entitlement to First Step Act credits under the 28 Second Chance Act, Congressional intent, and statutory construction, albeit in 1 || greater detail in the Reply. See Dkt. 1 at 3-4; Dkt. 16 at 3-7. Notably, however, he 2 || never effectively addresses that the Federal Bureau of Prisons is statutorily 3 || prohibited from applying earned credits due to Petitioner's "medium" recidivism- 4 || risk score. Dkt. 13 at 3, 7-8; Dkt. 14 at 6-7; Dkt. 16 at 2-3. Indeed, as noted in 5 || Report, Petitioner admitted he maintained such a risk score throughout his 6 || incarceration. Dkt. 1 at 1; Dkt. 14 at 6. 7 Because the Reply has now been fully considered and it provides no basis for 8 || relief, the Objections are OVERRULED except to the extent the Report indicates 9 || Petitioner did not reply to the Answer. With this minor correction, the Court accepts 10 || the Report and adopts it as its own findings and conclusions. 11 Finally, as a federal prisoner proceeding under 28 U.S.C. § 2241, Petitioner is 12 || not required to obtain a certificate of appealability ("COA") to appeal this case. See

13. || *Harrison v. Ollison*, 519 F.3d 952, 958 (9th Cir. 2008) (holding that the plain

14 || language of 28 U.S.C. § 2253(c)(1) does not require federal prisoners bringing 15 || § 2241 petitions to obtain a COA in order to appeal, unless the § 2241 petition "is 16 || merely a 'disguised' § 2255 petition"); see e.g., *Tomlinson v. Caraway*, No. 14-cv- 17 || 020094-VBF-KK, 2014 WL 4656432 at *1 (C.D. Cal. Sept. 16, 2014) (adopting 18 || report and recommendation and noting that petitioner in federal custody was not 19 || required to obtain a COA to appeal denial of his § 2241 petition). 20 IT IS SO ORDERED. 21 . 22 || Dated: August 21, 2025 imnttwars

73 ANNE HWANG ©

United States District Judge 24 25 26 27 28

Retrieved from lawtools.ai · <https://lawtools.ai/cases/state/united-states-district-court-for-the-central-district-of-california-united-states-district-court-for/2025/daro-kosin-v-v-araiza-ramirez-warden-vpbhitq0>