

**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.

OPINION

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