

**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

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**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 until July 7, 2025, after the July 3, 2025 Report. Dkts. 14, 16.

Accordingly, through no fault of the Magistrate Judge, the Report noted that Petitioner had not filed a reply because it had not yet been docketed. Dkt. 16 at 2. The Court has considered Petitioner's Reply. See, e.g., *Akhtar v. Mesa*, 698 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 wished to make further arguments not made in a reply to an answer, those arguments could be made in objections). In the Reply, Petitioner repeats arguments he made in the Petition regarding the futility of exhaustion of administrative remedies. Dkt. 1 at 2-3; Dkt. 16 at 1-2. This provides no basis to disturb the Report because the Magistrate Judge ultimately declined to reach the exhaustion issue and instead turned to the merits.

Dkt. 14 at 4. In that regard, Petitioner similarly repeats arguments he made regarding his entitlement to First Step Act credits under the Second Chance Act, Congressional intent, and statutory construction, albeit in greater detail in the Reply. See Dkt. 1 at 3-4; Dkt. 16 at 3-7. Notably, however, he never effectively addresses that the Federal Bureau of Prisons is statutorily prohibited from applying earned credits due to Petitioner's "medium" recidivism-risk score.

Dkt. 13 at 3, 7-8; Dkt. 14 at 6-7; Dkt. 16 at 2-3. Indeed, as noted in the Report, Petitioner admitted he maintained such a risk score throughout his incarceration. Dkt. 1 at 1; Dkt. 14 at 6. 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. Finally, as a federal prisoner proceeding under 28 U.S.C. § 2241, Petitioner is not required to obtain a certificate of appealability ("COA") to appeal this case. See *Harrison v. Ollison*, 519 F.3d 952, 958 (9th Cir. 2008) (holding that the plain language of 28 U.S.C. § 2253(c)(1) does not require federal prisoners bringing § 2241 petitions to obtain a COA in order to appeal, unless the § 2241 petition "is 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 report and recommendation and noting that petitioner in federal custody was not required to obtain a COA to appeal denial of his § 2241 petition). **IT IS SO ORDERED.** Dated: August 21, 2025 imnttwars 73 ANNE HWANG © United States District Judge

