

UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF
CALIFORNIA

Kern v. Lester

Kern v. Lester · No. 2:24-cv-00740-DC-EFB (PC) · Decided April 7, 2025

OPINION

(PC) Kern v. Lester

PER CURIAM.

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8 UNITED STATES DISTRICT COURT

9 FOR THE EASTERN DISTRICT OF CALIFORNIA

10

11 JAMES CURTIS KERN, No. 2:24-cv-00740-DC-EFB (PC)

12 Plaintiff,

13 v. ORDER ADOPTING FINDINGS AND

RECOMMENDATIONS AND DISMISSING

14 KATHERINE LESTER, et al., THIS ACTION

15 Defendants. (Doc. No. 15) 16 17 Plaintiff James Curtis Kern is a state prisoner proceeding pro
se and in forma pauperis in 18 this civil rights action pursuant to 42 U.S.C. § 1983. (Doc. No. 1.)
In his complaint, Plaintiff 19 challenges various aspects of his underlying conviction and sentence.
(Id.) This matter was 20 referred to a United States Magistrate Judge pursuant to 28 U.S.C. §
636(b)(1)(B) and Local Rule 21 302. 22 On February 20, 2025, the assigned magistrate judge
issued findings and 23 recommendations recommending this action be dismissed without
prejudice because success on 24 Plaintiff’s claims would imply the invalidity of his conviction
and Plaintiff had not shown that his 25 conviction had been invalidated. (Doc. No. 15); see *Hebrad*
v. Nofziger, 90 F.4th 1000, 1010 (9th

26 Cir. 2024) (a prisoner’s § 1983 claim is barred under *Heck v. Humphrey*, 512 U.S. 477 (1994)
“if

27 success in th[e] action would necessarily demonstrate the invalidity of . . . [the] duration” of a
28 prisoner's confinement “no matter the relief sought.”) (quoting *Wilkinson v. Dotson*, 544 U.S.
74, 1 | 81-82 (2005)). The magistrate judge noted Plaintiff may raise his claims in a petition for
writ for 2 | habeas corpus if such a petition is not otherwise barred. (/d. at 3.) 3 The findings and
recommendations were served on Plaintiff and contained notice that any 4 | objections thereto
were to be filed within fourteen (14) days after service. Ud. at 3.) On February 5 | 26, 2025,
Plaintiff filed objections to the pending findings and recommendations. (Doc. No. 18.) 6 In his
objections, Plaintiff does not meaningfully address the magistrate judge’s findings 7 | and

recommendations. Instead, Plaintiff continues to challenge his conviction and sentence and 8 | states he has filed an appeal to the California Court of Appeal. (/d.) Thus, Plaintiff's objections do 9 | not provide a basis upon which to reject the findings and recommendations. 10 In accordance with the provisions of 28 U.S.C. § 636(b)(1)(C), the court has conducted a 11 | de novo review of the case. Having carefully reviewed the entire file, including Plaintiffs 12 | objections, the court concludes that the findings and recommendations are supported by the 13 | record and by proper analysis. As the magistrate judge correctly noted in his findings and 14 | recommendations, Plaintiff may file a federal habeas petition for writ of habeas corpus if such a 15 || petition is not otherwise barred. 16 Accordingly, 17 1. The findings and recommendations issued on February 20, 2025 (Doc. No. 15) are 18 ADOPTED in full; 19 2. This action is dismissed without prejudice; and 20 3. The Clerk of the Court is directed to close this case. 21 22

73 IT IS SO ORDERED. □

24 | Dated: _ April 7, 2025 □□□ Os Dena Coggins 25 United States District Judge 26 27 28 1 2 3 4
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