

**UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF
CALIFORNIA**

Reymundo Jose Mendez, Jr. v. Warden, FCI-Mendota

No. 1:25-cv-00716-SKO (HC) · No. 1:25-cv-00716-SKO (HC) · Decided June 13, 2025

OPINION

(HC) Mendez v. Warden

PER CURIAM.

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8 UNITED STATES DISTRICT COURT

9 FOR THE EASTERN DISTRICT OF CALIFORNIA

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11 REYMUNDO JOSE MENDEZ, JR., No. 1:25-cv-00716-SKO (HC)

12 Petitioner, ORDER TO ASSIGN DISTRICT JUDGE

13 v. FINDINGS AND RECOMMENDATIONS

TO DISMISS PETITION

14

WARDEN, FCI-MENDOTA, [21-DAY OBJECTION DEADLINE]

15 Respondent. 16

17 Petitioner is a federal prisoner proceeding pro se and in forma pauperis with a petition for 18 writ of habeas corpus pursuant to 28 U.S.C. § 2241. 19 On May 19, 2025, Petitioner filed the instant habeas petition in the Sacramento Division 20 of this Court. (Doc. 1.) On June 12, 2025, the petition was transferred to the Fresno Division. 21 Upon review of the petition, the Court finds that Petitioner has failed to exhaust administrative 22 remedies. Accordingly, the Court will RECOMMEND the petition be DISMISSED without 23 prejudice.

24 DISCUSSION

25 A. Preliminary Review of Petition

26 Rule 4 of the Rules Governing Section 2254 Cases allows a district court to dismiss a

27 petition if it “plainly appears from the petition and any attached exhibits that the petitioner is not 28 entitled to relief in the district court” Rule 4 of the Rules Governing Section 2254

Cases. 1 The Advisory Committee Notes to Rule 8 indicate that the court may dismiss a petition for writ of 2 habeas corpus, either on its own motion under Rule 4, pursuant to the respondent’s motion to 3 dismiss, or after an answer to the petition has been filed. *Herbst v. Cook*, 260 F.3d 1039 (9th Cir. 4 2001). 5 B. Background 6 On November 18, 2024, Petitioner was sentenced to a term of 60 months on an unstated 7 conviction. He is incarcerated at the Federal Correctional Institution in Mendota, California. In 8 his petition, he claims that the Bureau of Prisons (“BOP”)

must transfer him to a halfway house 9 pursuant to the Sentencing Reform Act. 10 C. Exhaustion
11 Before filing a petition for writ of habeas corpus, a federal prisoner challenging any 12
circumstance of imprisonment must first exhaust all administrative remedies. *Martinez v. 13*
Roberts, 804 F.2d 570, 571 (9th Cir. 1986); *Chua Han Mow v. United States*, 730 F.2d 1308, 14
1313 (9th Cir. 1984); *Ruwiwat v. Smith*, 701 F.2d 844, 845 (9th Cir. 1983). The requirement that
15 federal prisoners exhaust administrative remedies before filing a habeas corpus petition was 16
judicially created; it is not a statutory requirement. *Brown v. Rison*, 895 F.2d 533, 535 (9th Cir. 17
1990). Thus, “because exhaustion is not required by statute, it is not jurisdictional.” *Id.* If 18
Petitioner has not properly exhausted his claims, the district court, in its discretion, may either 19
“excuse the faulty exhaustion and reach the merits or require the petitioner to exhaust his 20
administrative remedies before proceeding in court.” 21 The first step in seeking administrative
remedies is a request for informal resolution. 22 C.F.R. § 542.13. When informal resolution
procedures fail to achieve sufficient results, the BOP 23 makes available to inmates a formal
three-level administrative remedy process: (1) a Request for 24 Administrative Remedy (“BP-9”)
filed at the institution where the inmate is incarcerated; (2) a 25 Regional Administrative Remedy
Appeal (“BP-10”) filed at the Regional Office for the 26 geographic region in which the inmate’s
institution is located; and (3) a Central Office 27 Administrative Remedy Appeal (“BP-11”) filed
with the Office of General Counsel. 28 C.F.R. § 28 542.10 et seq. 1 Petitioner concedes he has not
attempted to exhaust administrative remedies, contending 2 to do so would be futile. The
exhaustion requirement “is not lightly to be disregarded.” *Murillo 3 v. Mathews*, 588 F.2d 759,
762, n.8 (9th Cir. 1978) (citation omitted). A “key consideration” in 4 exercising such discretion is
whether “relaxation of the requirement would encourage the 5 deliberate bypass of the
administrative scheme[.]” *Laing v. Ashcroft*, 370 F.3d 994, 1000 (9th
6 Cir. 2004) (internal quotation marks omitted). The exhaustion requirement should not be
excused

7 in this case because Petitioner has deliberately bypassed the administrative scheme, and 8
permitting the petition to go forward would only encourage further deliberate bypass of the 9
administrative process. Had Plaintiff properly sought administrative relief, the BOP would have
10 granted him relief or advised him of the reason for his placement. Petitioner’s broad assertion
that 11 the BOP generally acts arbitrarily to ignore governing statutes is not a sufficient or
founded 12 reason to bypass administrative review.

13 ORDER

14 Accordingly, the Clerk of Court is directed to assign a district judge to this case.

15 RECOMMENDATION

16 For the foregoing reasons, the Court RECOMMENDS that the petition be DISMISSED 17
without prejudice for failure to exhaust administrative remedies. 18 This Findings and
Recommendation is submitted to the United States District Court Judge 19 assigned to the case,
pursuant to the provisions of 20 U.S.C. § 636 (b)(1)(B) and Rule 304 of the 20 Local Rules of

Practice for the United States District Court, Eastern District of California. Within 21 twenty-one (21) days after being served with a copy of this Findings and Recommendation, a 22 party may file written objections with the Court and serve a copy on all parties. Id. The document 23 should be captioned, "Objections to Magistrate Judge's Findings and Recommendation" and shall 24 not exceed fifteen (15) pages, except by leave of court with good cause shown. The Court will not 25 consider exhibits attached to the Objections. To the extent a party wishes to refer to any 26 exhibit(s), the party should reference the exhibit in the record by its CM/ECF document and page 27 number, when possible, or otherwise reference the exhibit with specificity. Any pages filed in 28 excess of the fifteen (15) page limitation may be disregarded by the District Judge when 1 reviewing these Findings and Recommendations pursuant to 28 U.S.C. § 636 (b)(1)(C). The 2 parties are advised that failure to file objections within the specified time may result in the waiver 3 of rights on appeal. *Wilkerson v. Wheeler*, 772 F.3d 834, 838-39 (9th Cir. 2014). This 4 recommendation is not an order that is immediately appealable to the Ninth Circuit Court of 5 Appeals. Any notice of appeal pursuant to Rule 4(a)(1), Federal Rules of Appellate Procedure, 6 should not be filed until entry of the District Court's judgment. 7 IT IS SO ORDERED. 8 9 Dated: June 13, 2025 /s/ Sheila K. Oberto .

UNITED STATES MAGISTRATE JUDGE

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