

UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF
CALIFORNIA

Perez v. Parker

Perez · No. 2:24-CV-3285-SCR · Decided May 29, 2025

SUMMARY

The document is an order and findings and recommendations in a 28 U.S.C. § 2254 habeas action challenging the denial of 138 days of presentencing custody credits. The magistrate judge recommends summary dismissal because the petition duplicates a pending habeas action concerning the same conviction and claim. The court grants the petitioner’s motion to proceed in forma pauperis and directs random assignment to a district judge.

CASE DETAILS

COURT	United States District Court for the Eastern District of California
WRITING FOR THE COURT	Sean C. Riordan
JURISDICTION	United States District Court for the Eastern District of California
DECIDED	May 29, 2025
DOCKET	2:24-CV-3285-SCR
DISPOSITION	dismissed
PROCEDURAL POSTURE	Petitioner filed a federal habeas corpus application under 28 U.S.C. § 2254 challenging the denial of 138 days of presentencing custody credits. On preliminary review, the magistrate judge recommended summary dismissal because the petition duplicated a pending habeas action involving the same conviction and claim.
STANDARD OF REVIEW	Under Rule 4 of the Rules Governing Section 2254 Cases, the court conducts preliminary review and may summarily dismiss a habeas petition when it is plain that the petitioner is not entitled to relief. The court also relied on the federal courts' authority to prevent duplicative or unnecessary litigation.
PRECEDENTIAL VALUE	nonprecedential
PARTIES	Lisa Marie Perez, aka Lisa Marie Belyew v. Lavelle Parker

TOPICS

federal habeas corpus

motions to dismiss

pleadings

civil procedure

PRACTICE AREAS

federal habeas corpus

post-conviction relief

civil procedure

QUESTIONS PRESENTED

1. Whether the § 2254 petition should be summarily dismissed as duplicative of a pending federal habeas action involving the same conviction and presentencing-credit claim.
2. Whether the petitioner should be granted leave to proceed in forma pauperis.

HOLDINGS

1. The magistrate judge recommended summary dismissal because the petition duplicated the pending federal habeas action *Belyew v. Parker*, No. 2:19-cv-0294-DAD-AC, which challenged the same conviction and presentencing custody-credit issue.
2. The court granted petitioner's motion to proceed in forma pauperis.

KEY QUOTATIONS

“Under Rule 4 of the Rules Governing Habeas Corpus Cases Under Section 2254 Cases, the court must review all petitions for writ of habeas corpus and summarily dismiss any petition if it is plain that the petitioner is not entitled to relief.” (at 1)

“Federal courts retain broad powers to control their dockets and to “prevent duplicative or unnecessary litigation.”” (at 1)

“After conducting its preliminary review of the pending § 2254 petition, the undersigned recommends that it be summarily dismissed because it is duplicative of a pending action.” (at 1)

FACTUAL BACKGROUND

Petitioner challenged a 2018 Colusa County Superior Court conviction for assault with a deadly weapon, corporal injury on a spouse, and vandalism, for which she received a thirteen-year sentence. Her conviction was affirmed on direct review, and review was denied by the California Supreme Court in 2020. In this petition, she sought application of 138 days of presentencing custody credits, but the same claim was pending in another federal habeas action concerning the same conviction.

PROCEDURAL HISTORY

Petitioner was convicted in the Colusa County Superior Court and sentenced to thirteen years in prison. The California Court of Appeal affirmed the conviction, and the California Supreme Court denied review in 2020. Petitioner filed several state habeas petitions and a pending federal habeas action, *Belyew v. Parker*, No. 2:19-cv-0294-DAD-AC, raising the same presentencing-credit claim. The magistrate judge recommended that this action be summarily dismissed as duplicative and that the case be closed, subject to review by an assigned district judge.

DISPOSITION

dismissed

CASES CITED

- Slack v. McDaniel, 529 U.S. 473, 478 (2000)
- MGIC Indem. Co. v. Weisman, 803 F.2d 500, 505 (9th Cir. 1986)
- United States v. Wilson, 631 F.2d 118, 119 (9th Cir. 1980)
- Morris v. Woodford, 229 F.3d 775, 780 (9th Cir. 2000)
- Martinez v. Ylst, 951 F.2d 1153 (9th Cir. 1991)

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