

UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF
CALIFORNIA

Perez v. Parker

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

OPINION

(HC) Perez v. Parker

PER CURIAM.

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7 UNITED STATES DISTRICT COURT

8 FOR THE EASTERN DISTRICT OF CALIFORNIA

9

10 LISA MARIE PEREZ, aka LISA MARIE No. 2:24-CV-3285-SCR

BELYEW,

11 Petitioner,

12 ORDER AND

v.

13 FINDINGS AND RECOMMENDATIONS

LAVELLE PARKER,

14 Respondent. 15

16 Petitioner is a state prisoner proceeding without counsel in this habeas corpus action filed 17
pursuant to 28 U.S.C. § 2254. 18 I. Factual and Procedural History 19 Petitioner is challenging her
2018 conviction following a jury trial in the Colusa County 20 Superior Court for assault with a
deadly weapon, corporal injury on a spouse, and vandalism. 21 ECF No. 1. She was sentenced to
13 years in prison. ECF No. 1. Her conviction was affirmed 22 by the California Court of Appeal
and her petition for review was denied by the California 23 Supreme Court in 2020. Petitioner has
also filed several state habeas petitions challenging this 24 conviction. 25 In the pending § 2254
application, petitioner raises a single claim for relief. She contends 26 that the trial court abused
its discretion in denying her 138 days of presentencing custody credits. 27 By way of relief, she
requests this court to order these 138 days of credits be applied to her 28 sentence. 1 II. Legal
Standards 2 Under Rule 4 of the Rules Governing Habeas Corpus Cases Under Section 2254
Cases, 3 the court must review all petitions for writ of habeas corpus and summarily dismiss any
petition if 4 it is plain that the petitioner is not entitled to relief. Federal courts retain broad powers
to control 5 their dockets and to “prevent duplicative or unnecessary litigation.” Slack v.
McDaniel, 529 U.S. 6 473, 478 (2000). 7 III. Analysis 8 The court’s own records reveal that
petitioner has a pending habeas action challenging this 9 same conviction in Belyew v. Parker, No.

2:19-cv-0294-DAD-AC (E.D. Cal.).¹ Indeed, 10 petitioner raises the same claim challenging her presentencing credits in *Belyew v. Parker*, No. 11 2:19-cv-0294-DAD-AC. On December 10, 2024, the assigned magistrate judge in *Belyew v. Parker* recommended that the habeas application be denied including her claim that the trial court 13 improperly denied her custody credits. See ECF No. 77 at 38 in No. 2:19-cv-0294-DAD-AC. 14 After conducting its preliminary review of the pending § 2254 petition, the undersigned 15 recommends that it be summarily dismissed because it is duplicative of a pending action. 16 Accordingly, IT IS HEREBY ORDERED that: 17 1. Petitioner’s motion to proceed in forma pauperis (ECF No. 5) is granted. 18 2. The Clerk of Court shall randomly assign this matter to a District Judge. 19 IT IS FURTHER RECOMMENDED that: 20 1. Petitioner’s habeas corpus application (ECF No. 1) be summarily dismissed as 21 duplicative of *Belyew v. Parker*, No. 2:19-cv-0294-DAD-AC (E.D. Cal.). 22 2. The Clerk of Court be directed to close this case. 23 These findings and recommendations are submitted to the District Judge assigned to the 24 case, pursuant to the provisions of 28 U.S.C. § 636(b)(1). Within twenty one days after being 25 served with these findings and recommendations, any party may file written objections with the 26 27 1 A court may take judicial notice of court records. See *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). 28 1 | court and serve a copy on all parties. Such a document should be captioned “Objections to 2 | Magistrate Judge’s Findings and Recommendations.” In her objections petitioner may address 3 || whether a certificate of appealability should issue in the event he files an appeal of the judgment 4 | in this case. See Rule 11, Federal Rules Governing Section 2254 Cases (the district court must 5 || issue or deny a certificate of appealability when it enters a final order adverse to the applicant). 6 || Where, as here, a habeas petition is dismissed on procedural grounds, a certificate of appealability 7 || “should issue if the prisoner can show: (1) ‘that jurists of reason would find it debatable whether 8 | the district court was correct in its procedural ruling;’ and (2) ‘that jurists of reason would find it 9 || debatable whether the petition states a valid claim of the denial of a constitutional right.’” *Morris* 10 | *v. Woodford*, 229 F.3d 775, 780 (9th Cir. 2000) (quoting *Slack v. McDaniel*, 529 U.S. 473, 484 11 | (2000)). Any response to the objections shall be served and filed within fourteen days after 12 | service of the objections. The parties are advised that failure to file objections within the 13 || specified time may waive the right to appeal the District Court’s order. *Martinez v. Ylst*, 951 14 | F.2d 1153 (9th Cir. 1991). 15 | DATED: May 28, 2025 ° md 17

SEAN C. RIORDAN

18 UNITED STATES MAGISTRATE JUDGE

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