

1 Therefore, the Court will reinstate the Findings and Recommendations.

2 B. Motion for Injunctive Relief

3 On November 30, 2023, Petitioner filed a motion unrelated to the petition in which he
4 seeks injunctive relief directing the Bureau of Prisons to cease collection of restitution payments.
5 (Doc. 9.)

6 Rule 65(b) of the Federal Rules of Civil Procedure allows the Court to issue a temporary
7 restraining order. The purpose of a preliminary injunction is to preserve the status quo if the
8 balance of equities so heavily favors the moving party that justice requires the Court to intervene
9 to secure the positions until the merits of the action are ultimately determined. University of
10 Texas v. Camenisch, 451 U.S. 390, 395 (1981). However, the Court lacks jurisdiction, within the
11 framework of a habeas corpus proceeding, to grant the relief Petitioner requests. A federal court
12 is a court of limited jurisdiction. As a threshold and preliminary matter, the Court must have
13 before it for consideration a “case” or “controversy.” Flast v. Cohen, 392 U.S. 83, 88 (1968).
14 Absent such a case or controversy, the Court has no power to hear the matter. Rivera v. Freeman,
15 469 F.2d 1159, 1162-1163 (9th Cir. 1972). Petitioner’s request has nothing to do with the
16 underlying petition. Also, the petition fails to state a claim for relief, and therefore, there is no
17 case or controversy.

18 Moreover, there is no merit to Petitioner’s assertion that the BOP is unlawfully collecting
19 restitution payments. The Ninth Circuit has previously upheld sentencing courts' decisions to
20 delegate the timing and manner of payments of court-ordered restitution. See United States v.
21 Barany, 884 F.2d 1255, 1259-60 (9th Cir.1989); United States v. Signori, 844 F.2d 635, 642 (9th
22 Cir.1988); see also United States v. Fuentes, 107 F.3d 1515, 1528 n. 25 (11th Cir.1997)
23 (reviewing cases and concluding that “precedent clearly authorizes delegation of payment
24 schedules”).

25 **ORDER**

26 For the foregoing reasons, the Court HEREBY REINSTATES its Findings and
27 Recommendations that the habeas corpus petition be DISMISSED.

28 The Findings and Recommendations are submitted to the United States District Court

1 Judge assigned to this case, pursuant to the provisions of 28 U.S.C. section 636 (b)(1)(B) and
2 Rule 304 of the Local Rules of Practice for the United States District Court, Eastern District of
3 California.

4 Within ten (10) days after being served with a copy, Petitioner may file written objections
5 with the Court. Such a document should be captioned “Objections to Magistrate Judge’s Findings
6 and Recommendation.” The Court will then review the Magistrate Judge’s ruling pursuant to 28
7 U.S.C. § 636 (b)(1)(C). Failure to file objections within the specified time may waive the right to
8 appeal the District Court’s order. Martinez v. Ylst, 951 F.2d 1153 (9th Cir. 1991).

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10 IT IS SO ORDERED.

11 Dated: December 1, 2023

/s/ Sheila K. Oberto
UNITED STATES MAGISTRATE JUDGE

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