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UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

JOSEPH D. LYLES,
Petitioner,
v.
LOS ANGELES COUNTY COURTS,
COMPTON,
Respondent.

Case No. CV 16-5401 DOC (SS)

**MEMORANDUM DECISION AND
ORDER DISMISSING PETITION
WITH LEAVE TO AMEND**

I.

INTRODUCTION

On July 20, 2016, Joseph D. Lyles ("Petitioner"), a California resident proceeding pro se, filed a habeas petition pursuant to 28 U.S.C. § 2254. ("Petition," Dkt. No. 1). For the reasons discussed below, the Petition must be dismissed with leave to amend.¹

¹ "The filing of an application for a writ of habeas corpus is analogous to the filing of a civil complaint" Williams v. Coyle, 167 F.3d 1036, 1038 (6th Cir. 1999); see also Woodford v. Garceau, 538 U.S. 202, 208 (2003) ("[A] habeas suit begins with the filing of an application for habeas corpus relief -- the equivalent of a complaint in an ordinary civil case."). A

1 The Court has the authority to dismiss habeas actions sua
2 sponte under the Rules Governing § 2254 Cases in the United States
3 District Courts. See 28 U.S.C. foll. § 2254, Rule 4 ("If it plainly
4 appears from the petition and any attached exhibits that the
5 petitioner is not entitled to relief in the district court, the
6 judge must dismiss the petition and direct the clerk to notify the
7 petitioner."); see also Pagtalunan v. Galaza, 291 F.3d 639, 641 &
8 n.1 (9th Cir. 2002) (quoting Rule 4); Hendricks v. Vasquez, 908
9 F.2d 490, 491 (9th Cir. 1990) (observing that summary dismissal is
10 appropriate where petition's allegations are vague, conclusory,
11 palpably incredible, patently frivolous or false) (citing
12 Blackledge v. Allison, 431 U.S. 63, 75-76 (1977)).

13
14 **II.**

15 **ALLEGATIONS OF THE PETITION**

16
17 The Petition appears to challenge a 2013 Los Angeles County
18 conviction for possessing marijuana with the intent to sell in
19 violation of California Health and Safety Code § 11359. (Petition
20 at 10, 64). The Petition purports to raise thirteen grounds for
21 relief, some of which are further subdivided into sub-grounds for
22 relief and many of which overlap. (Id. at 9-59).

23
24 Ground One alleges that Petitioner's sentence was wrongly
25 enhanced based upon an earlier conviction for a crime of violence.

26
27

Magistrate Judge may dismiss a complaint with leave to amend
28 without approval of the District Judge. See McKeever v. Block,
932 F.2d 795, 798 (9th Cir. 1991).

1 (Id. at 9-11). Ground One is divided into several sub-grounds
2 arguing that various witnesses who testified in support of the
3 earlier conviction conspired to introduce perjured testimony. (Id.
4 at 9-23).

5
6 Ground Two appears to argue that the evidence was insufficient
7 to demonstrate that Petitioner intended to sell marijuana: he
8 claims that he stores marijuana in numerous baggies to ration it
9 for his own use, not because he intends to sell it to others. (Id.
10 at 25-27). Ground Two further argues that Petitioner was
11 unlawfully searched for marijuana by Los Angeles Metro Transit
12 Police officers. Petitioner raises similar unlawful search claims
13 in Grounds Three, Four, Five, and Eight. (Id. at 23-34, 39).

14
15 Ground Six appears intended to state a claim under the
16 Americans With Disabilities Act, but simply reiterates Petitioner's
17 contentions that: (1) he was unlawfully searched; (2) perjured
18 testimony was introduced to obtain his earlier conviction; and
19 (3) his marijuana was not packaged for sale to others. (Id. at
20 34-38). Ground Seven argues that, at the time of his arrest, he
21 had a "valid medical marijuana recommendation." (Id. at 38-39).

22
23 Grounds Nine and Eleven argue that California's prisons are
24 overcrowded and that non-violent offenders should be released
25 before violent offenders. (Id. at 42, 52-53).² Grounds Ten and
26 Thirteen allege that Petitioner had no access to marijuana in

27
28 ² In the scanned version of the Petition available on the Court's
docket, the page describing Ground Nine is in the wrong place.

1 prison for medical use or for use in Petitioner's religious
2 rituals. (Id. at 40-52, 56-59). Ground Twelve alleges that
3 Petitioner lacked access to a phone in prison. (Id. at 53-56).
4

5 **III.**

6 **DISCUSSION**

7
8 Pursuant to 28 U.S.C. § 2254, the Court must dismiss the
9 Petition due to the defects discussed below. However, the Court
10 grants Petitioner leave to amend.
11

12 **A. The Petition Must Be Dismissed Because Petitioner Did Not Use**
13 **The Appropriate Form**

14
15 Local Civil Rule 83-16.1 provides that "[a] petition for a
16 writ of habeas corpus . . . shall be submitted on the forms approved
17 and supplied by the Court." Here, Petitioner did not use the form
18 issued by the Central District of California, and the Petition does
19 not include all of the information requested on the Central
20 District's standard form. This Court adheres to the practice of
21 asking a petitioner who has not used the required form to submit
22 his petition on the local form. See 28 U.S.C. foll. § 2254, Rule
23 2 advisory committee's note to 2004 amendments (acknowledging this
24 practice). Accordingly, the Petition is dismissed with leave to
25 amend so that Petitioner may file a First Amended Petition using
26 the correct form.
27
28

1 **B. The Petition Must Be Dismissed Because It Fails To Comply With**
2 **Rule 8**

3
4 Rule 8(a) requires a complaint to contain "a short and plain
5 statement of the claim showing that the pleader is entitled to
6 relief." Fed. R. Civ. P. 8(a); see also Bell Atl. Corp. v. Twombly,
7 550 U.S. 544, 555 (2007) (Rule 8(a) requires only "'a short and
8 plain statement of the claim showing that the pleader is entitled
9 to relief,' in order to 'give the defendant fair notice of what
10 the . . . claim is and the grounds upon which it rests'" (quoting
11 Conley v. Gibson, 355 U.S. 41, 47 (1957)).

12
13 A pleading can violate Rule 8 in "multiple ways." Knapp v.
14 Hogan, 738 F.3d 1106, 1109 (9th Cir. 2013). "One well-known type
15 of violation is when a pleading says too little." Id. (citation
16 omitted). "The Rule is also violated, though, when a pleading says
17 too much." Id. (citing Cafasso, U.S. ex rel. v. Gen. Dynamics C4
18 Sys., Inc., 637 F.3d 1047, 1058 (9th Cir. 2011)).

19
20 Additionally, Rule 2(c) of the Rules Governing § 2254 Cases,
21 which demands an even "more detailed statement" than Federal Rule
22 of Civil Procedure 8(a), Mayle v. Felix, 545 U.S. 644, 649 (2005),
23 requires that a petition "specify all the grounds for relief
24 available to the petitioner" and "state the facts supporting each
25 ground." Rule 2(c), 28 U.S.C. foll. § 2254.

26
27 While Rule 2(c) of the Rules Governing § 2254 Cases requires
28 a "more detailed statement," the instant Petition is needlessly

1 lengthy and repetitive. It is over fifty-nine pages long,
2 excluding exhibits and, as noted above, there is extensive overlap
3 and duplication in Petitioner's claims. A respondent would have
4 difficulty understanding and responding to the Petition as
5 currently drafted. The Petition must be dismissed with leave to
6 file a First Amended Petition complying with the authorities
7 discussed above.

8
9 **C. Several Of Petitioner's Claims Are Defective Or Are Not**
10 **Cognizable On Habeas Corpus Review**

11
12 The foregoing defects in the Petition are sufficient to
13 warrant dismissal. However, in the interest of providing
14 Petitioner with a full opportunity to file a First Amended Petition
15 containing meritorious claims, the Court identifies several legal
16 deficiencies in his current claims that likely warrant modifying
17 or omitting these claims.

18
19 First, it is unclear whether Petitioner is currently "in
20 custody" pursuant to the challenged conviction. A § 2254
21 petitioner must show that he is "in custody" pursuant to the
22 challenged state court judgment at the time his petition is filed.
23 28 U.S.C. § 2254(a); Maleng v. Cook, 490 U.S. 488, 490-91 (1989).
24 Although incarceration, parole and certain other restraints on a
25 person's liberty qualify as "custody" for purposes of section 2254,
26 a person does not remain "in custody" under a state court judgment
27 simply because that judgment may be used to enhance sentences for
28 later crimes. See Maleng, 490 U.S. at 491-92; see also Lackawanna

1 Cty. Dist. Attorney v. Coss, 532 U.S. 394, 401 (2001). The instant
2 Petition appears to challenge a 2013 conviction for which
3 Petitioner "took a plea deal of (16) sixteen months at half time."
4 (Petition at 7, 9-10). It therefore appears that Petitioner was
5 not imprisoned under that conviction when he filed the Petition on
6 July 20, 2016. It is possible, however, that other restraints on
7 Petitioner's liberty place him "in custody" for the purpose of
8 challenging the 2013 conviction. A First Amended Petition should
9 identify any such restraints.³

10
11 Relatedly, to the extent that Petitioner seeks to challenge
12 the use of a prior conviction to enhance the sentence on his 2013
13 conviction, that challenge is barred and should be omitted from
14 any First Amended Petition. See Lackawanna Cty. Dist. Attorney,
15 532 U.S. at 403-04 ("[O]nce a state conviction is no longer open
16 to direct or collateral attack in its own right . . . the conviction
17 may be regarded as conclusively valid. If that conviction is later
18 used to enhance a criminal sentence, the defendant generally may
19 not challenge the enhanced sentence through a petition under § 2254
20 on the ground that the prior conviction was unconstitutionally
21 obtained.").

22
23
24 ³ Assuming that Petitioner is "in custody," a First Amended Petition
25 should also name a proper respondent, *i.e.*, the state officer
26 having custody of Petitioner, which might include his probation or
27 parole officer and the official in charge of the parole or probation
28 agency, or the state correctional agency, as appropriate. See Rule
2(a) of the Rules Governing § 2254 Cases; Ortiz-Sandoval v. Gomez,
81 F.3d 891, 894 (9th Cir. 1996). The current Respondent, "Los
Angeles County Courts, Compton," does not appear to be an
appropriate respondent.

1 Next, several of Petitioner's claims appear to allege
2 violations of Petitioner's Fourth Amendment protections against
3 unlawful searches and seizures. (Petition at 23-34, 36-37, 39).
4 However, Fourth Amendment violations are not cognizable on habeas
5 review if the petitioner had "an opportunity for full and fair
6 litigation of a Fourth Amendment claim." See Stone v. Powell, 428
7 U.S. 465, 494 (1976). The relevant inquiry is not whether
8 Petitioner did in fact litigate his Fourth Amendment claims, or
9 even whether his claims were correctly decided, but rather whether
10 he had the opportunity to litigate such claims. See Ortiz-Sandoval
11 v. Gomez, 81 F.3d 891, 899 (9th Cir. 1996). California provides
12 criminal defendants with such an opportunity through the procedures
13 of California Penal Code § 1538.5, which permits defendants to move
14 to suppress evidence on the ground that it was obtained in violation
15 of the Fourth Amendment. See Gordon v. Duran, 895 F.2d 610, 613-
16 14 (9th Cir. 1990). Absent evidence that Petitioner lacked an
17 opportunity for "full and fair" litigation of his Fourth Amendment
18 claims, they cannot form the basis for federal habeas corpus relief
19 and should be omitted from any First Amended Petition.

20
21 Several of Petitioner's claims challenge the conditions of
22 his confinement. (See Petition at 40-56). However, the exclusive
23 remedy for conditions-of-confinement claims is a suit under 42
24 U.S.C. § 1983, not a habeas corpus petition. See Nettles v.
25 Grounds, __ F.3d __, 2016 WL 4072465 at *9 (9th Cir. July 26, 2016)
26 (because success on petitioner's claims would not necessarily lead
27 to immediate or earlier release, claims did not fall within "core
28 of habeas corpus" and had to be brought under § 1983). Although a

1 habeas corpus petition may be construed as a § 1983 complaint,
2 Petitioner's informed consent to do so is required, and the
3 pleading must be amenable to conversion "on its face," i.e., it
4 must "name[] the correct defendants and seek the correct relief."
5 Id. at *10. Moreover, the Court cannot construe a habeas corpus
6 petition as a § 1983 complaint if it contains claims that fall
7 within the "core of habeas corpus," i.e., claims that seek release
8 from custody. See id. at *3 (Ninth Circuit has "long held" that
9 habeas corpus is the "exclusive vehicle" for claims brought by
10 state prisoners that fall within the core of habeas corpus, and
11 such claims may not be brought in a § 1983 action).⁴ If Petitioner
12 files a First Amended Petition seeking his release from custody,
13 it should not also include § 1983 claims that, if meritorious,
14 would not lead to release from custody.

15
16 Finally, Petitioner cites and discusses California law
17 throughout his Petition. However, a federal court conducting
18 habeas review is limited to deciding whether a state court decision
19 violates the Constitution, laws or treaties of the United States.
20 28 U.S.C. § 2254(a); Swarthout v. Cooke, 562 U.S. 216, 219 (2011)
21 (per curiam). Federal habeas corpus relief "does not lie for
22 errors of state law." Lewis v. Jeffers, 497 U.S. 764, 780 (1990);
23 see also Wilson v. Corcoran, 562 U.S. 1, 5 (2010) (per curiam)
24 ("[I]t is only noncompliance with federal law that renders a
25

26 ⁴ Moreover, to the extent that Petitioner seeks injunctive relief
27 for his conditions-of-confinement claims, Petitioner's release
28 from incarceration likely "extinguishes his legal interest in an
injunction." McQuillion v. Schwarzenegger, 369 F.3d 1091, 1095-96
(9th Cir. 2004).

1 State's criminal judgment susceptible to collateral attack in the
2 federal courts." (emphasis in original)). Petitioner also "may
3 not transform a state-law issue into a federal one merely by
4 asserting a violation of due process." Langford v. Day, 110 F.3d
5 1380, 1389 (9th Cir. 1997). Accordingly, the First Amended
6 Petition should omit claims based solely on errors of state law.

7
8 **IV.**

9 **CONCLUSION**

10
11 If Petitioner wishes to pursue this action, he must file a
12 First Amended Petition within thirty (30) days from the date of
13 this Order. Petitioner must use the form approved by the Central
14 District of California, **a copy of which is attached.** The First
15 Amended Petition shall be complete in itself and shall bear both
16 the designation "First Amended Petition" and the case number
17 assigned to this action. It shall not refer in any manner to the
18 original Petition.

19
20 Petitioner is advised to clearly identify, to the best of his
21 ability, the dates he filed any appeals as well as the dates of
22 any rulings on those appeals. Similarly, Petitioner is advised to
23 clearly identify the dates he filed any state habeas petitions as
24 well as the dates of any rulings on those petitions. Petitioner
25 shall also, to the extent possible, list the claims raised in each
26 of his direct appeals and habeas petitions filed in state court.
27 Finally, in presenting his claims in his First Amended Petition,
28 Petitioner should assert each of his grounds for federal habeas

1 relief as a separate "claim" by (1) identifying the constitutional
2 right that he alleges was violated, followed by (2) a statement of
3 all facts that support that particular claim. The First Amended
4 Petition should avoid grouping allegations of purported violations
5 of different constitutional rights committed by different actors
6 based on different facts in the same "claim."

7
8 **Petitioner is further cautioned that failure to timely file a**
9 **First Amended Petition will result in a recommendation that this**
10 **action be dismissed with prejudice for failure to prosecute,**
11 **pursuant to Federal Rule of Civil Procedure 41(b).**

12
13 **If Petitioner no longer wishes to pursue this action, he may**
14 **use the attached form Notice of Dismissal and voluntarily dismiss**
15 **this action without prejudice.** Petitioner is advised that any
16 dismissed claims may later be subject to the one-year limitations
17 period under 28 U.S.C. § 2244(d)(1), as amended by AEDPA.

18
19 IT IS SO ORDERED.

20
21 DATED: August 24, 2016

22
23 /s/
24 _____
25 SUZANNE H. SEGAL
26 UNITED STATES MAGISTRATE JUDGE
27
28