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UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

REGINALD BATISTE,)	CASE NO. CV 17-840-SVW (PJW)
)	
Petitioner,)	
)	ORDER DISMISSING HABEAS CORPUS
v.)	PETITION AND DENYING CERTIFICATE
)	OF APPEALABILITY
MORALES, DIRECTOR,)	
)	
Respondent.)	
)	

16 Before the Court is a Petition for Writ of Habeas Corpus under 28
17 U.S.C. § 2254, in which Petitioner is challenging the Los Angeles
18 County Superior Court’s August 2016 order committing him to Atascadero
19 State Hospital for one year. (Petition at 2-3.) He contends that he
20 is being held there unlawfully. (Petition at 3-4.)

21 Because it appeared from the face of the Petition that Petitioner
22 had not presented his claims to the California Supreme Court or raised
23 a federal claim (see Petition at 2-6), on February 3, 2017, the Court
24 issued an order to show cause why the Petition should not be
25 dismissed.¹ On February 21, 2017, Petitioner filed a response.

26 _____
27 ¹ The Court pointed out that Petitioner had failed to name the
28 proper Respondent. In his Response, Petitioner named hospital
director Morales, who is substituted for Judge Longoria, pursuant to
Fed. R. Civ. Pro. 25(d).

1 For the following reasons, the Petition is dismissed without
2 prejudice.

3 The Court has a duty to screen habeas corpus petitions before
4 ordering service on a respondent. See *Mayle v. Felix*, 545 U.S. 644,
5 656 (2005). In doing so, if it plainly appears from the face of a
6 petition that a petitioner is not entitled to relief, the Court can
7 dismiss the petition at the outset. See Rule 4, Rules Governing
8 § 2254 Cases.

9 As a matter of comity between state and federal courts, a federal
10 court will generally not address the merits of a habeas corpus
11 petition unless a petitioner has first exhausted his state remedies by
12 presenting his claims to the highest court of the state. 28 U.S.C.
13 § 2254(b); *Rose v. Lundy*, 455 U.S. 509, 522 (1982); see also *Cooper v.*
14 *Neven*, 641 F.3d 322, 326 (9th Cir. 2011). Because it is clear that
15 Petitioner has not presented his claims to the California Supreme
16 Court (or the Court of Appeal), the Petition is unexhausted and
17 subject to dismissal. See *Rasberry v. Garcia*, 448 F.3d 1150, 1154
18 (9th Cir. 2006) ("Once a district court determines that a habeas
19 petition contains only unexhausted claims, it need not inquire further
20 as to the petitioner's intentions. Instead, it may simply dismiss the
21 habeas petition for failure to exhaust.").

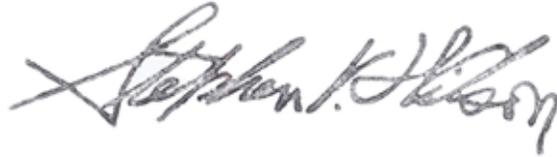
22 Petitioner also fails to state a federal claim. The Court can
23 only grant a writ of habeas corpus if a petitioner can show that the
24 state court violated the federal Constitution or federal law.
25 *Swarthout v. Cooke*, 562 U.S. 216, 219 (2011). Petitioner contends
26 that his conviction is unwarranted and that he was illegally sent to
27 Atascadero. He claims, among other things, that one of the officers
28 involved in his case is now serving a federal prison sentence and that

1 a report used to sentence him is "a bunch of lies." (Petition at 3.)
2 These claims do not sufficiently allege a violation of federal law.
3 Nevertheless, because Petitioner may be able to amend his claims later
4 on to state a federal violation, the Court will dismiss the Petition
5 without prejudice.

6 Finally, because Petitioner has not made a substantial showing of
7 the denial of a constitutional right, a certificate of appealability
8 will not issue in this action. See 28 U.S.C. § 2253(c)(2); Fed. R.
9 App. P. 22(b); *Miller-El v. Cockrell*, 537 U.S. 322, 336 (2003).

10 IT IS SO ORDERED

11 DATED: June 7, 2017.

12 

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14 _____
15 STEPHEN V. WILSON
16 UNITED STATES DISTRICT JUDGE

17 Presented by:

18 

19 _____
20 PATRICK J. WALSH
21 UNITED STATES MAGISTRATE JUDGE