

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA
CIVIL MINUTES—GENERAL

Case No. **SACV 17-1136-GW (KK)**

Date: July 14, 2017

Title: ***Jim Ryan P. Ada v. Federal Board of Investigations***

Present: The Honorable **KENLY KIYA KATO, UNITED STATES MAGISTRATE JUDGE**

DEB TAYLOR

Not Reported

Deputy Clerk

Court Reporter

Attorney(s) Present for Plaintiff(s):

Attorney(s) Present for Defendant(s):

None Present

None Present

Proceedings: (In Chambers) Order to Show Cause Why Petition Should Not Be Dismissed

**I.
INTRODUCTION**

On July 3, 2017, Carmelita P. Ada, purportedly on behalf of her son, Petitioner Jim Ryan P. Ada, filed a “Petition for Writ of Habeas Corpus by a Person in Federal Custody.” ECF Docket No. (“Dkt.”) 1. For the reasons set forth below, the Petition appears subject to dismissal. The Court will not make a final determination regarding whether the federal Petition should be dismissed, however, without giving Petitioner an opportunity to address these issues.

Accordingly, the Court hereby issues this Order to Show Cause why the Petition should not be dismissed, and specifically orders Petitioner to respond to the Order to Show Cause in writing no later than **August 14, 2017**. The Court further directs Petitioner to review the information that follows, which provides additional explanation as to why the federal Petition appears to be subject to dismissal and may assist Petitioner in determining how to respond.

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II. DISCUSSION

A. PETITION IS SUBJECT TO DISMISSAL BECAUSE IT IS NOT SIGNED BY PETITIONER

Petitioner Jim Ryan P. Ada did not sign the Petition. The district court may dismiss or refuse to file a petition that is unsigned or unverified by the petitioner. See Hendricks v. Vasquez, 908 F.2d 490, 491 (9th Cir. 1990); Application of Gibson, 218 F.2d 320 (9th Cir. 1954), cert. denied, 348 U.S. 955 (1955).

Petitioner's mother, Carmelita P. Ada, purports to bring this action pro se on behalf of Petitioner. Petitioner's mother may not do so. A non-lawyer may not represent in litigation anyone other than himself or herself. See Campbell v. Burt, 141 F.3d 927, 931 (9th Cir. 1998); Johns v. Cty. of San Diego, 114 F.3d 874, 877 (9th Cir. 1997).

Even if Petitioner is a minor, which is unclear in light of the allegation he was enrolled in high school in 2015, his non-lawyer mother may not litigate on Petitioner's behalf. See L.R. 83-2.10.2 ("A non-attorney guardian for a minor or an incompetent person must be represented by counsel."); Bullock v. Dioguardi, 847 F. Supp. 553, 560 (N.D. Ill. 1993) ("Although a parent has a right to litigate claims on h[er] own behalf without an attorney, [s]he cannot litigate the claims of h[er] children unless [s]he obtains counsel."), accord Osei-Afriyie by Osei-Afriyie v. Med. Coll. of Pennsylvania, 937 F.2d 876, 882-83 (3d Cir. 1991); Cheung v. Youth Orchestra Found. of Buffalo, Inc., 906 F.2d 59, 61 (2d Cir. 1990); Meeker v. Kercher, 782 F.2d 153, 154 (10th Cir. 1986).

B. PETITION IS SUBJECT TO DISMISSAL FOR FAILURE TO STATE A CLAIM

A habeas petition "is expected to state facts that point to a real possibility of constitutional error." Blackledge v. Allison, 431 U.S. 63, 76 n.7, 97 S. Ct. 1621, 1630, 52 L. Ed. 2d 136 (U.S. 1977) (citation omitted). Failing to do so, the Petition is subject to dismissal. Id.; see Jones v. Gomez, 66 F.3d 199, 204-05 (9th Cir. 1995), cert. denied, 517 U.S. 1143 (1996) (holding conclusory allegations unsupported by a statement of specific facts do not warrant habeas relief); Mihailoviki v. State of Cal., 364 F.2d 808, 809 (9th Cir. 1966) (affirming dismissal of petition with, inter alia, contained unintelligible and conclusory allegations); Hines v. Napolitano, No. CIV. 071816-WQH (RBB), 2007 WL 2859745, at *1 (S.D. Cal. Sept. 26, 2007) (dismissing petition which contained "unintelligible allegations without any specific federal constitutional grounds for relief"; court need not "engage in a tenuous analysis in order to attempt to identify and ma[k]e sense of the Petition"); see also Denton v. Hernandez, 504 U.S. 25, 29, 112 S. Ct. 1728, 118 L. Ed. 2d 340 (1992) (finding court need not accept the truth of apparently delusional allegations). Moreover, Rule 8 of the Federal Rules of Civil Procedure requires that a pleading contain a "short and plain statement of the claim showing that the pleader is entitled to relief." Fed. R. Civ. P. 8.

Here, the Petition vaguely and confusingly appears to allege that the “Federal Board of Investigations” caused Petitioner to go to a different public high school in Orange County, California than where his mother had originally enrolled him, that Petitioner is somehow being held in custody in the Northern Mariana Islands (notwithstanding his attendance at a public high school in California), and that medicines triggering “paralysis” and “euthanasia” are being placed into Petitioner’s food and water. See Pet. at 3-4. Therefore, the Petition fails to state a cognizable claim for federal habeas relief. In addition, the Petition violates Rule 8 of the Federal Rules of Civil Procedure, because the Petition is so vague and confusing as to leave uncertain the nature of Petitioner’s claims. Fed. R. Civ. P. 8.

C. PETITION IS SUBJECT TO DISMISSAL FOR LACK OF JURISDICTION

Writs of habeas corpus may be granted by the United States District Courts “within their respective jurisdictions.” 28 U.S.C. § 2241(a). Section 2241(a) requires that “the court issuing the writ have jurisdiction over the custodian.” Braden v. 30th Judicial Circuit Court of Kentucky, 410 U.S. 484, 495, 93 S. Ct. 1123, 35 L. Ed. 2d 443 (1973). This rule ensures that the custodian will be amenable to service of process. Id.; see also Dunne v. Henman, 875 F.2d 244, 248 (9th Cir. 1989).

According to the Petition, Petitioner’s “custodian,” if any, would appear to be located in the Northern Mariana Islands, an area not within the jurisdiction of this Court. Therefore, it appears that this Court may lack jurisdiction.

III. **ORDER**

For all of the foregoing reasons, the Petition appears subject to dismissal. Petitioner is therefore ORDERED TO SHOW CAUSE why the Petition should not be dismissed **no later than August 14, 2017**. Petitioner must respond in writing by either (a) clearly explaining why the deficiencies referenced above do not warrant dismissal; or (b) filing a First Amended Petition curing the above referenced deficiencies. The First Amended Petition shall be complete in itself. It shall not refer in any manner to the original Petition. In other words, Petitioner must start over when preparing the First Amended Petition.

The Court expressly warns Petitioner that failure to timely file a response to this Order will result in the Court dismissing this action without prejudice for his failure to comply with court orders and failure to prosecute. See Fed. R. Civ. P. 41(b).

The Clerk of Court is directed to serve a copy of this Order on Petitioner at his current address of record.

IT IS SO ORDERED.