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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

WILFREDO MINA,
Petitioner,
v.
JEFF MACOMBER,
Respondent.

Case No. 1:23-cv-01665-SAB-HC
**FINDINGS AND RECOMMENDATION TO
DISMISS PETITION FOR WRIT OF
HABEAS CORPUS**
**ORDER DIRECTING CLERK OF COURT
TO RANDOMLY ASSIGN DISTRICT
JUDGE**

Petitioner is a state prisoner proceeding pro se with a petition for writ of habeas corpus pursuant to 28 U.S.C. § 2254.

I.
BACKGROUND

On September 28, 2023, Petitioner filed the instant petition for writ of habeas corpus in this Court. (ECF No. 1.) On October 3, 2023, the petition was transferred to the Central District of California because Petitioner wrote that the petition is challenging a judgment from the Riverside County Superior Court. (ECF No. 2.) On November 29, 2023, the United States District Court for the Central District of California ordered that the petition be transferred back to the Eastern District “because Petitioner was convicted in the Madera County Superior Court, as confirmed by the abstract of judgment attached to the Petitioner . . . and in the Petition he

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1 challenges his sentence.” (ECF No. 7 at 1–2.)¹ On November 30, 2023, the petition was
2 transferred. (ECF No. 8.)

3 **II.**

4 **DISCUSSION**

5 Rule 4 of the Rules Governing Section 2254 Cases requires preliminary review of a
6 habeas petition and allows a district court to dismiss a petition before the respondent is ordered
7 to file a response, if it “plainly appears from the petition and any attached exhibits that the
8 petitioner is not entitled to relief in the district court.” Rule 4, Rules Governing Section 2254
9 Cases in the United States District Courts, 28 U.S.C. foll. § 2254.

10 In the petition, Petitioner states that an “unauthorized sentence may be corrected anytime
11 for due process.” (ECF No. 1 at 13 (capitalization omitted).) Petitioner appears to assert that “his
12 sentence is unauthorized because of invalidated nonpunitive fines and fees under new authority
13 of AB 1869 and AB 177”² and alleges that the superior court did not address this claim in its
14 denial of Petitioner’s state habeas petition and thus, the state court’s denial was “contrary to law
15 and [an] unreasonable determination of facts, which denied due process.” (*Id.* at 15.)

16 By statute, federal courts “shall entertain an application for a writ of habeas corpus in
17 behalf of a person in custody pursuant to the judgment of a State court only on the ground that he
18 is in custody in violation of the Constitution or laws or treaties of the United States.” 28 U.S.C.
19 § 2254(a). “Section 2254(a)’s language permitting a habeas petition to be entertained ‘only on
20 the ground that [the petitioner] is in custody *in violation of the Constitution or laws or treaties of*
21 *the United States,*’ (emphasis added), explicitly requires a nexus between the petitioner’s claim
22 and the unlawful nature of the custody.” *Bailey v. Hill*, 599 F.3d 976, 980 (9th Cir. 2010).

23 To the extent Petitioner seeks federal habeas relief based on the superior court’s failure to
24 address his claim regarding allegedly unlawful imposition of nonpunitive fines and fees in
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26 ¹ Page numbers refer to the ECF page numbers stamped at the top of the page.

27 ² “In enacting AB 1869 on September 18, 2020, and AB 177 on September 23, 2021, the Legislature sought to
28 eliminate the range of administrative fees that agencies and courts are authorized to impose to fund elements of the
criminal legal system and sought to eliminate all outstanding debt incurred as a result of the imposition of
administrative fees.” *People v. Hernandez*, No. B315983, 2023 WL 3243350, at *16 (Cal. Ct. App. May 4, 2023).

1 denying Petitioner’s state habeas petition, the Court finds that such a claim is not cognizable
2 because “a petition alleging errors in the state post-conviction review process is not addressable
3 through [federal] habeas corpus proceedings.” Franzen v. Brinkman, 877 F.2d 26, 26 (9th Cir.
4 1989). Accord Cooper v. Neven, 641 F.3d 322, 331–32 (9th Cir. 2011). To the extent Petitioner
5 seeks federal habeas relief based on the allegedly unlawful imposition of nonpunitive fines and
6 fees, the Court finds that Petitioner’s challenge to the fines and fees “lacks any nexus, as required
7 by the plain text of § 2254(a), to his custody.” Bailey, 599 F.3d at 981. “Because courts do not
8 have jurisdiction over a habeas corpus petition brought pursuant to § 2254 challenging only a
9 restitution order,” and “the elimination or alteration of a money judgment . . . does not directly
10 impact—and is not directed at the source of the restraint on—[Petitioner’s] liberty,” the Court
11 finds that the petition should be dismissed. Id. at 984, 981.

12 **III.**

13 **RECOMMENDATION & ORDER**

14 Based on the foregoing, the Court HEREBY RECOMMENDS that the petition for writ of
15 habeas corpus be DISMISSED for failure to state a cognizable federal habeas claim.

16 Further, the Clerk of Court is DIRECTED to randomly assign this action to a District
17 Judge.

18 This Findings and Recommendation is submitted to the United States District Court
19 Judge assigned to the case, pursuant to the provisions of 28 U.S.C. § 636 (b)(1)(B) and Rule 304
20 of the Local Rules of Practice for the United States District Court, Eastern District of California.

21 Within **THIRTY (30) days** after service of the Findings and Recommendation, Petitioner may
22 file written objections with the Court and serve a copy on all parties. Such a document should be
23 captioned “Objections to Magistrate Judge’s Findings and Recommendation.” The assigned
24 District Judge will then review the Magistrate Judge’s ruling pursuant to 28 U.S.C.
25 § 636(b)(1)(C). Petitioner is advised that failure to file objections within the specified time may

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1 result in the waiver of rights on appeal. Wilkerson v. Wheeler, 772 F.3d 834, 839 (9th Cir. 2014)
2 (citing Baxter v. Sullivan, 923 F.2d 1391, 1394 (9th Cir. 1991)).

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4 IT IS SO ORDERED.

5 Dated: December 19, 2023


UNITED STATES MAGISTRATE JUDGE

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