

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

RAYSHAWN SMITH,
Petitioner,
v.
W. L. MONTGOMERY,
Respondent.

No. 2:14-cv-2468 CKD P

ORDER

Petitioner, a state prisoner proceeding pro se, has filed a petition for writ of habeas corpus pursuant to 28 U.S.C. § 2254, together with a request to proceed in forma pauperis.

Examination of the affidavit reveals petitioner is unable to afford the costs of this action. Accordingly, leave to proceed in forma pauperis is granted. 28 U.S.C. § 1915(a).

Petitioner challenges his 2012 conviction in the Sacramento County Superior Court for attempted robbery and other offenses. (ECF No. 1 at 1.) His sole claim is that the trial court erred by allowing the prosecutor to present prejudicial evidence of alleged third-party attempts to influence the testimony of a witness, Davis. (Id. at 5.) As petitioner does not explain who Davis is or how her testimony affected the case, the factual basis for petitioner’s claim is not clear. Moreover, in the legal section of his claim, petitioner asserts that the trial court’s error violated California evidence law. (Id.) As errors of state law are not cognizable on federal habeas review, petitioner has not set forth the basis for a claim under 28 U.S.C. § 2254. Estelle v. McGuire, 502

1 U.S. 62, 68 (1991) (standard of review for federal habeas court “is limited to deciding whether a
2 conviction violated the Constitution, laws, or treaties of the United States.”).

3 As petitioner has failed to specify the grounds for relief in his petition, the petition will be
4 dismissed. See Rule 2(c), Rules Governing § 2254 Cases. Petitioner may file an amended
5 petition within thirty days. Failure to timely file an amended petition will result in a
6 recommendation that this action be dismissed.

7 Therefore, IT IS HEREBY ORDERED that:

- 8 1. Petitioner is granted leave to proceed in forma pauperis;
- 9 2. Petitioner’s application for writ of habeas corpus is dismissed with leave to amend
10 within thirty days from the date of this order;¹
- 11 3. Any amended petition must bear the case number assigned to this action and the title
12 “Amended Petition”; and
- 13 4. The Clerk of the Court is directed to send petitioner the court’s form for application for
14 writ of habeas corpus.

15 Dated: October 27, 2014

16 
17 _____
18 CAROLYN K. DELANEY
19 UNITED STATES MAGISTRATE JUDGE
20
21
22
23

24 2 / smit2468.114
25
26

27 _____
28 ¹ By setting this deadline, the court is making no finding or representation that the petition is not
subject to dismissal as untimely.