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UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

STEVEN R. RODRIGUEZ,
Petitioner,
v.
C. WOFFORD,
Respondent.

No. 2:14-cv-2946 CKD P

ORDER

Petitioner, a state prisoner proceeding pro se, has filed a petition for a writ of habeas corpus pursuant to 28 U.S.C. § 2254. He has paid the filing fee and consented to have all matters in this action before a United States Magistrate Judge. See 28 U.S.C. § 636.

Under Rule 4 of the Rules Governing Section 2254 Cases, the court is required to conduct a preliminary review of all petitions for writ of habeas corpus filed by state prisoners. The court must summarily dismiss a petition if it “plainly appears . . . that the petitioner is not entitled to relief. . .” The court has conducted the review required under Rule 4.

Petitioner presents one ground for relief: that his convictions were obtained by the use of evidence gained pursuant to an unconstitutional search and seizure. In Stone v. Powell, 428 U.S. 465, 482 (1976) the Supreme Court found that federal courts can only review a Fourth Amendment claim raised in a petition for writ of habeas corpus if state court proceedings denied the petitioner an “opportunity for full and fair litigation” of the claim. From the record before the

1 court, it is clear petitioner had a suppression hearing, he appealed the denial of the motion to
2 suppress, and then sought review of the denial of his appeal in the California Supreme Court.
3 Nothing before the court indicates petitioner did not have a full and fair opportunity to have his
4 Fourth Amendment claim litigated in California's courts.

5 Because it is plain that petitioner is barred from proceeding on his Fourth Amendment
6 claim in this court by Stone v. Powell, petitioner's habeas petition must be summarily dismissed.

7 In accordance with the above, IT IS HEREBY ORDERED that:

- 8 1. Petitioner's petition for a writ of habeas corpus is summarily dismissed;
- 9 2. This case is closed; and
- 10 3. The court declines to issue the certificate of appealability referenced in 28 U.S.C. §
11 2253.

12 Dated: March 16, 2015



CAROLYN K. DELANEY
UNITED STATES MAGISTRATE JUDGE

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