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UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

JOSE RAMIREZ-SALGADO,
Petitioner,

v.

WARDEN, MULE CREEK STATE
PRISON,
Respondents.

No. 2:15-cv-1037 KJM CKD P

ORDER AND
FINDINGS AND RECOMMENDATIONS

Petitioner, a state prisoner proceeding pro se, has filed a petition for a writ of habeas corpus pursuant to 28 U.S.C. § 2254 along with an application to proceed in forma pauperis. Examination of the in forma pauperis application reveals that petitioner is unable to afford the costs of suit. Accordingly, the application to proceed in forma pauperis will be granted. See 28 U.S.C. § 1915(a).

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.

In his petition, petitioner asserts that the decision to deny him parole in 2013 is not supported by sufficient evidence. Petitioner has a liberty interest in parole protected by the Due

1 Process Clause of the Fourteenth Amendment. Swarthout v. Cooke, 131 S. Ct. 859, 861-62
2 (2011). However, the procedural protections which must be afforded with respect to the liberty
3 interest implicated are minimal; the “Constitution does not require more” than “an opportunity to
4 be heard” at a parole hearing and that the potential parolee be “provided a statement of the
5 reasons why parole was denied.” Id. at 862. Petitioner has no Constitutional right concerning the
6 sufficiency of evidence upon which a denial of parole is based. To the extent petitioner asserts
7 the evidence presented is not sufficient under California law, an application for a writ of habeas
8 corpus by a person in custody under a judgment of a state court can be granted only for violations
9 of the Constitution or laws of the United States, not state law. 28 U.S.C. § 2254(a).

10 Because it is plain that petitioner is not entitled to federal habeas relief, the court will
11 recommend that his petition be summarily dismissed.

12 In accordance with the above, IT IS HEREBY ORDERED that petitioner’s motion to
13 proceed in forma pauperis (ECF No. 2) is granted; and

14 IT IS HEREBY RECOMMENDED that petitioner’s application for writ of habeas corpus
15 be summarily dismissed.

16 These findings and recommendations are submitted to the United States District Judge
17 assigned to the case, pursuant to the provisions of 28 U.S.C. § 636(b)(1). Within fourteen days
18 after being served with these findings and recommendations, petitioner may file written
19 objections with the court. Such a document should be captioned “Objections to Magistrate
20 Judge’s Findings and Recommendations.” In his objections petitioner may address whether a
21 certificate of appealability should issue in the event he files an appeal of the judgment in this
22 case. See Rule 11, Federal Rules Governing Section 2254 Cases (the district court must issue or
23 deny a certificate of appealability when it enters a final order adverse to the applicant). Petitioner

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1 is advised that failure to file objections within the specified time may waive the right to appeal the
2 District Court's order. Martinez v. Ylst, 951 F.2d 1153 (9th Cir. 1991).

3 Dated: August 13, 2015



CAROLYN K. DELANEY
UNITED STATES MAGISTRATE JUDGE

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