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UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

TIMOTHY FISHER,

 Petitioner,

 v.

FRED FIGUEROA, Warden,

 Respondent.

No. 2:15-cv-1504 GGH P

ORDER AND FINDINGS &
RECOMMENDATIONS

Petitioner, a state prisoner proceeding pro se, purports to have filed an application for a writ of habeas corpus pursuant to 28 U.S.C. § 2254. The application states that no claims have been exhausted in the state courts. Thus, had petitioner actually filed a non-frivolous petition, it would have to be dismissed for failure to exhaust state court remedies.

The petition contains the following grounds: (1) “unlawful conviction and imprisonment on alleged ‘criminal’ action under an undisclosed/secret jurisdiction;” (2) “flaw in the constitution (two nations in one);” and (3) “unauthorized use of private property/fraud.” Supporting facts include by way of example, that “there are only two criminal jurisdictions associated with the Constitution for the United States i.e., the Common Law and Admiralty/Maritime Law. The nature of the law in which petitioner was convicted falls neither under Common Law nor Admiralty/Maritime Law.” (ECF No. 1 at 16.) In support of Ground 2, petitioner discusses a flaw in the Constitution, that the District of Columbia is a “nation within a nation,” and that “in

1 the Legislative Democracy (over Washington D.C.), Congress is not limited by the Constitution.”
2 (Id. at 17.) In support of Ground 3, petitioner states in part: “[p]etitioner goes by the appellation
3 Timothy James Fisher [copyright symbol] 2007 All Rights Reserved. (See Exhibit A). Petitioner
4 notified public of Petitioner’s Copyright Notice and all of Petitioner’s papers and effects are
5 private.” (Id. at 18.) The only statement which appears coherent at first blush is the allegation
6 that petitioner’s “Civil Code statute rights have been violated: Actual Fraud § 1572, Undue
7 Influence § 1575, Involuntary trusts of wrongful gains § 2224, Duress § 1569, Essentials of
8 consent § 1565, Apparent consent, when not free § 1567, Mistake of law § 1578.” (Id. at 19.)
9 These conclusory allegations have no place in a habeas petition which is limited to challenges of
10 the validity or duration of a prisoner’s confinement.

11 Rule 4 of the Rules Governing Habeas Corpus Cases Under Section 2254 provides for
12 summary dismissal of a habeas petition “[i]f it plainly appears from the face of the petition and
13 any exhibits annexed to it that the petitioner is not entitled to relief in the district court.” Here,
14 petitioner’s claims are virtually unintelligible and nonsensical. It is plain from the petition and
15 appended exhibits that petitioner is not entitled to federal habeas relief. Therefore, the petition
16 should be summarily dismissed.

17 Pursuant to Rule 11 of the Federal Rules Governing Section 2254 Cases, this court must
18 issue or deny a certificate of appealability when it enters a final order adverse to the applicant. A
19 certificate of appealability may issue only “if the applicant has made a substantial showing of the
20 denial of a constitutional right.” 28 U.S.C. § 2253(c)(2). For the reasons set forth in these
21 findings and recommendations, a substantial showing of the denial of a constitutional right has
22 not been made in this case.

23 Accordingly, IT IS ORDERED that the Clerk of the Court is directed to: (1) serve a copy
24 of the petition filed in this case together with a copy of these findings and recommendations on
25 the Attorney General of the State of California, and (2) assign a district judge to this case.

26 IT IS HEREBY RECOMMENDED that:

- 27 1. Petitioner's application for a writ of habeas corpus be summarily dismissed; and
- 28 2. The District Court decline to issue a certificate of appealability.

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These findings and recommendations are submitted to the United States District Judge assigned to the case, pursuant to the provisions of 28 U.S.C. § 636(b)(1). Within fourteen days after being served with these findings and recommendations, petitioner may file written objections with the court. Such a document should be captioned "Objections to Magistrate Judge's Findings and Recommendations." Petitioner is advised that failure to file objections within the specified time may waive the right to appeal the District Court's order. *Martinez v. Ylst*, 951 F.2d 1153 (9th Cir.1991).

Dated: July 22, 2015

/s/ Gregory G. Hollows

UNITED STATES MAGISTRATE JUDGE

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