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UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

CHANG KAI,
Petitioner,
v.
UNKNOWN,
Respondent.

No. 2:15-cv-1599 JAM DAD P

FINDINGS AND RECOMMENDATIONS

Petitioner is a state prisoner proceeding pro se with an application for writ of habeas corpus under 28 U.S.C. § 2254. On July 31, 2015, the court dismissed the petition for failure to meet the screening requirements of 28 U.S.C. § 1915A and granted petitioner thirty days in which to file an amended petition. (See ECF No. 4.)¹ Petitioner was informed that his failure to comply

¹ Specifically, the undersigned noted that the letter, which the court deemed to be a petition, referred to two different state-court criminal convictions, one in Santa Clara County Superior Court and one in Los Angeles County Superior Court, and that it appeared petitioner was most likely attempting to collaterally attack his judgment of conviction entered in the latter court. (ECF No. 4 at 3.) However, because the petition’s factual statements and the alleged grounds for habeas relief were too vague to justify the transfer of the action to the U.S. District Court for the Central District of California, the court concluded that the better course was to dismiss the petition with leave to amend so that petitioner would be provided the opportunity to be more specific about where he was convicted and why he alleges that conviction violated his rights under the U.S. Constitution or other federal law. Petitioner was also admonished to consider whether the Eastern District of California was the proper venue for his habeas action or whether the more proper course is for him to file a petition in Central District of California

1 with that order or otherwise communicate with the court would result in a recommendation that
2 this action be dismissed without prejudice.

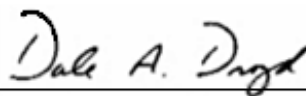
3 The thirty-period set by the court's order has passed, and petitioner has not filed an
4 amended petition. Instead, petitioner has merely filed with this court two documents in which he
5 requests that vaguely described court papers be returned to him and states that he has "already
6 signed on the form." (ECF Nos. 7 and 8.) Both of these letters again refer to a criminal action
7 prosecuted in the Los Angeles County Superior Court and presumably appeals related to that
8 conviction in the California Court of Appeal for the Second District and the California Supreme
9 Court. Those submissions are unresponsive to the habeas pleading requirements the court set out
10 in its screening order of July 31, 2015.

11 Because petitioner has not attempted to meet any of the screening criteria described in the
12 court's previous order, the undersigned will recommend that this action be dismissed for failure to
13 prosecute, pursuant to Federal Rule of Civil Procedure 41(b) and Local Rule 110.

14 Accordingly, IT IS RECOMMENDED that this action be dismissed without prejudice for
15 failure to prosecute. Fed. R. Civ. P. 41(b); Local Rule 110.

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, any party may file written
19 objections with the court and serve a copy on all parties. Such a document should be captioned
20 "Objections to Magistrate Judge's Findings and Recommendations." Any response to the
21 objections shall be served and filed within fourteen days after service of the objections. The
22 parties are advised that failure to file objections within the specified time may waive the right to
23 appeal the District Court's order. Martinez v. Ylst, 951 F.2d 1153 (9th Cir. 1991).

24 Dated: September 15, 2015

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26 _____
27 DALE A. DROZD
28 UNITED STATES MAGISTRATE JUDGE

27 hm
28 kai1599.fta