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UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

LERROY ALLEN HELLER,
Petitioner,
v.
PEOPLE OF THE STATE OF CALIFORNIA,
Respondent.

No. 2:17-cv-0042 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 consented to have all matters in this action before a United States Magistrate Judge. See 28 U.S.C. § 636(c).

Petitioner requests leave 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 must review all petitions for writ of habeas corpus and summarily dismiss any petition if it is plain that the petitioner is not entitled to relief. The court has conducted that review.

Petitioner challenges the amount of restitution he was ordered to pay when sentenced and the amount of credit he has been given against that amount for time served in custody. However, 28 U.S.C. § 2254(a) is clear that the court can only entertain a petition for writ of habeas corpus

1 brought by a state prisoner under § 2254 if there is an allegation that the prisoner is in custody in
2 violation of federal law. There is no habeas jurisdiction to hear claims brought by state prisoners
3 concerning an order that they pay restitution. E.g. Bailey v. Hill, 599 F.3d 976 (9th Cir. 2010).

4 For these reasons, IT IS HERBY ORDERED that:

- 5 1. Petitioner's request for leave to proceed in forma pauperis (ECF No. 6) is granted;
- 6 2. Petitioner's petition for writ of habeas corpus is summarily dismissed;
- 7 3. This case is closed; and
- 8 4. The court declines to issue the certificate of appealability referenced in 28 U.S.C. §
9 2253.

10 Dated: February 28, 2017



CAROLYN K. DELANEY
UNITED STATES MAGISTRATE JUDGE

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