

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

ARTOUR ARISTAKESIAN,
Petitioner,
v.
K. HOLLAND,
Respondent.

No. 2:17-cv-0315 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. He has paid the filing fee.

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 an order that he pay restitution. However, 28 U.S.C. § 2254(a) is clear that the court can only entertain a petition for writ of habeas corpus brought by a state prisoner under § 2254 if there is an allegation that the prisoner is in custody in violation of federal law. There is no habeas jurisdiction to hear claims brought by state prisoners concerning an order that they pay restitution. E.g. Bailey v. Hill, 599 F.3d 976 (9th Cir. 2010).

For these reasons, the court will recommend that petitioner’s petition for writ of habeas corpus be summarily dismissed.

1 Accordingly, IT IS HEREBY ORDERED that the Clerk of the Court assign a district
2 court judge to this case.

3 IT IS HEREBY RECOMMENDED that:

- 4 1. Petitioner’s petition for writ of habeas corpus be summarily dismissed; and
- 5 2. This case be closed.

6 These findings and recommendations are submitted to the United States District Judge
7 assigned to the case, pursuant to the provisions of 28 U.S.C. § 636(b)(1). Within fourteen days
8 after being served with these findings and recommendations, petitioner may file written
9 objections with the court. Such a document should be captioned “Objections to Magistrate
10 Judge’s Findings and Recommendations.” In his objections petitioner may address whether a
11 certificate of appealability should issue in the event he files an appeal of the judgment in this
12 case. See Rule 11, Federal Rules Governing Section 2254 Cases (the district court must issue or
13 deny a certificate of appealability when it enters a final order adverse to the applicant). Petitioner
14 is advised that failure to file objections within the specified time may waive the right to appeal the
15 District Court’s order. Martinez v. Ylst, 951 F.2d 1153 (9th Cir. 1991).

16 Dated: February 28, 2017



CAROLYN K. DELANEY
UNITED STATES MAGISTRATE JUDGE

21 1
22 aris0315.sd

23
24
25
26
27
28