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UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF CALIFORNIA

ALEX LEONARD AZEVEDO,  
Petitioner,  
v.  
COLUSA COUNTY SUPERIOR COURT,  
Respondent.

No. 2:17-cv-0545 DB P

ORDER

Petitioner is a state prisoner proceeding pro se with a petition for a writ of habeas corpus under 28 U.S.C. § 2254, claiming the trial court imposed an unauthorized sentence. Before the court is petitioner’s motion to proceed in forma pauperis (“IFP”) (ECF No. 2) and petition (ECF No. 1) for screening. For the reasons set for the below, the court grants the motion to proceed IFP and dismisses the petition, but will provide petitioner an opportunity to file an amended petition.

**BACKGROUND**

Petitioner initiated this action in January of 2017 by filing a petition for a writ of habeas corpus pursuant to 28 U.S.C. § 2254. (ECF No. 1.) Therein, petitioner challenges his 2016 conviction and sentence rendered by the Colusa County Superior Court.

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1 Rule 2(c) of the Rules Governing § 2254 Cases requires every habeas petition to (1)  
2 specify all the grounds for relief available to the petitioner; (2) state the facts supporting each  
3 ground; and (3) state the relief requested. Although, as stated above, pro se petitions receive less  
4 scrutiny for precision than those drafted by lawyers, a petitioner must give fair notice of his  
5 claims by stating the factual and legal elements of each claim in a short, plain, and succinct  
6 manner. See Mayle v. Felix, 545 U.S. 644, 648 (2005) (“In ordinary civil proceedings ... Rule 8  
7 of the Federal Rules of Civil Procedure requires only 'a short and plain statement[.] ... Rule 2(c)  
8 of the Rules Governing Habeas Corpus Cases requires a more detailed statement.”) Allegations  
9 in a petition that are vague, conclusory, or palpably incredible, and that are unsupported by a  
10 statement of specific facts, are insufficient to warrant relief and are subject to summary dismissal.  
11 Jones v. Gomez, 66 F.3d 199, 204–05 (9th Cir.1995); James v. Borg, 24 F.3d 20, 26 (9th  
12 Cir.1994).

## 13 **II. Discussion**

14 Petitioner asserts one ground for habeas relief in his petition: That the trial court imposed  
15 an unauthorized sentence that does not comply with the realignment law. (ECF No. 1 at 3.)

16 The Antiterrorism and Effective Death Penalty Act (“AEDPA”) imposes “a highly  
17 deferential standard for evaluating state-court rulings,” requiring “that state-court decisions be  
18 given the benefit of the doubt.” Woodford v. Visciotti, 537 U.S. 19, 24 (2002) (quoting Lindh v.  
19 Murphy, 521 U.S. 320, 333 n. 7 (1997)). Section 2241(c) provides that habeas corpus shall not  
20 extend to a prisoner unless he is “in custody in violation of the Constitution.” 28 U.S.C. §  
21 2254(a) states, “[A] district court shall entertain an application for a writ of habeas corpus in  
22 behalf of a person in custody pursuant to a judgment of a State court only on the ground that he is  
23 in custody in violation of the Constitution or laws or treaties of the United States.” See also Rule  
24 1 to the Rules Governing Section 2254 Cases in the United States District Court. “[F]ederal  
25 habeas corpus relief does not lie for errors of state law.” Estelle v. McGuire, 502 U.S. 62, 67  
26 (1991) (citations omitted). “[E]rrors of state law do not concern us unless they rise to the level of  
27 a constitutional violation.” Oxborrow v. Eikenberry, 877 F.2d 1395, 1400 (9th Cir. 1989).

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be titled "First Amended Petition." Petitioner is warned that the court cannot refer to his prior petition to make his First Amended Petition complete. Petitioner must include all claims for habeas corpus relief in his first amended petition.

4. The Clerk of the Court is directed to send petitioner a copy of the form used in this district for pursuing a writ of habeas corpus under 28 U.S.C. § 2254.

5. Petitioner is warned that his failure to comply with this order may result in dismissal of this action.

Dated: September 30, 2017



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DEBORAH BARNES  
UNITED STATES MAGISTRATE JUDGE

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