

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

ERIN ELIZABETH HALE,  
Petitioner,  
v.  
STATE OF CALIFORNIA, et al.,  
Respondents.

No. 2:18-cv-3138 MCE CKD P

ORDER AND  
FINDINGS AND RECOMMENDATIONS

Petitioner, a Placer County Jail pretrial detainee proceeding pro se, has filed a petition for a writ of habeas corpus pursuant to 28 U.S.C. § 2254 together with a request to proceed in forma pauperis pursuant to 28 U.S.C. § 1915. Examination of the request to proceed in forma pauperis reveals that petitioner is unable to afford the costs of suit. Accordingly, the request for leave 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.

/////  
/////  
/////  
/////

1           Petitioner asserts that she has been subject to a false arrest. There are several problems  
2 with petitioner's claim: petitioner has not shown she has exhausted state court remedies with  
3 respect to her claim,<sup>1</sup> petitioner has not shown that there was not probable cause for her arrest,<sup>2</sup>  
4 and challenges to ongoing criminal proceedings are generally barred by the doctrine set forth in  
5 Younger v. Harris, 401 U.S. 37 (1971). For these reasons, the court will recommend that  
6 petitioner's petition for writ of habeas corpus be summarily dismissed.

7           Accordingly, IT IS HEREBY ORDERED that petitioner's request for leave to proceed in  
8 forma pauperis (ECF No. 2) is granted.

9           IT IS HEREBY RECOMMENDED that:

- 10           1. Petitioner's petition for writ of habeas corpus be summarily dismissed; and
- 11           2. This case be closed.

12           These findings and recommendations are submitted to the United States District Judge  
13 assigned to the case, pursuant to the provisions of 28 U.S.C. § 636(b)(1). Within fourteen days  
14 after being served with these findings and recommendations, petitioner may file written  
15 objections with the court. Such a document should be captioned "Objections to Magistrate  
16 Judge's Findings and Recommendations." In her objections, petitioner may address whether a  
17 certificate of appealability should issue in the event she files an appeal of the judgment in this  
18 case. See Rule 11, Federal Rules Governing Section 2254 Cases (the district court must issue or  
19 deny a certificate of appealability when it enters a final order adverse to the applicant). Where, as  
20 here, a habeas petition is dismissed on procedural grounds, a certificate of appealability "should  
21 issue if the prisoner can show: (1) 'that jurists of reason would find it debatable whether the  
22 district court was correct in its procedural ruling;' and (2) 'that jurists of reason would find it  
23 debatable whether the petition states a valid claim of the denial of a constitutional right.'" Morris  
24 v. Woodford, 229 F.3d 775, 780 (9th Cir. 2000) (quoting Slack v. McDaniel, 529 U.S. 473, 484

25       //////

---

26           <sup>1</sup> The exhaustion of state court remedies is a prerequisite to the granting of a petition for writ of  
27 habeas corpus. 28 U.S.C. § 2254(b)(1).

28           <sup>2</sup> Under the Fourth Amendment, any arrest must be supported by probable cause.

1 (2000)). Petitioner is advised that failure to file objections within the specified time may waive  
2 the right to appeal the District Court's order. Martinez v. Ylst, 951 F.2d 1153 (9th Cir. 1991).

3 Dated: April 1, 2019



---

CAROLYN K. DELANEY  
UNITED STATES MAGISTRATE JUDGE

4  
5  
6  
7  
8 1  
9 crai0061.114

10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28