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UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF CALIFORNIA

NORMAN JOHN CRAIG,  
Petitioner,  
v.  
COUNTY OF EL DORADO SHERIFF’S  
DEPARTMENT,  
Respondent.

No. 2:19-cv-0061 CKD P  
ORDER AND  
FINDINGS AND RECOMMENDATIONS

Petitioner, an El Dorado 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.

Petitioner complains about conditions of confinement at the El Dorado County Jail and asserts he was subject to a false arrest. Petitioner’s conditions of confinement claims are not proper because the court can only entertain a petition for writ of habeas corpus “on the ground that he is in custody in violation of [federal law].” 28 U.S.C. § 2254(a). Any claims concerning

1 conditions of confinement should be brought in an action filed pursuant to 42 U.S.C. §1983 for  
2 violation of civil rights.

3 As for the false arrest claim, there are several problems: petitioner has not shown that he  
4 has exhausted state court remedies with respect to his claim,<sup>1</sup> petitioner has not shown that there  
5 was not probable cause for his arrest,<sup>2</sup> and challenges to ongoing criminal proceedings are  
6 generally barred by the doctrine set forth in Younger v. Harris, 401 U.S. 37 (1971).

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

9 Accordingly, IT IS HEREBY ORDERED that:

- 10 1. Petitioner's request for leave to proceed in forma pauperis (ECF No. 6) is granted; and
- 11 2. The Clerk of the Court assign a district court judge to this case.

12 IT IS HEREBY RECOMMENDED that:

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

15 These findings and recommendations are submitted to the United States District Judge  
16 assigned to the case, pursuant to the provisions of 28 U.S.C. § 636(b)(1). Within fourteen days  
17 after being served with these findings and recommendations, petitioner may file written  
18 objections with the court. Such a document should be captioned "Objections to Magistrate  
19 Judge's Findings and Recommendations." In his objections, petitioner may address whether a  
20 certificate of appealability should issue in the event he files an appeal of the judgment in this  
21 case. See Rule 11, Federal Rules Governing Section 2254 Cases (the district court must issue or  
22 deny a certificate of appealability when it enters a final order adverse to the applicant). Where, as  
23 here, a habeas petition is dismissed on procedural grounds, a certificate of appealability "should  
24 issue if the prisoner can show: (1) 'that jurists of reason would find it debatable whether the  
25 district court was correct in its procedural ruling;' and (2) 'that jurists of reason would find it

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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 debatable whether the petition states a valid claim of the denial of a constitutional right.” Morris  
2 v. Woodford, 229 F.3d 775, 780 (9th Cir. 2000) (quoting Slack v. McDaniel, 529 U.S. 473, 484  
3 (2000)). Petitioner is advised that failure to file objections within the specified time may waive  
4 the right to appeal the District Court’s order. Martinez v. Ylst, 951 F.2d 1153 (9th Cir. 1991).

5 Dated: April 1, 2019



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CAROLYN K. DELANEY  
UNITED STATES MAGISTRATE JUDGE

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