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UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

SAMM STERLING, JR.,
Petitioner,
v.
JOSIE GASTELO,
Respondent.

No. 2:21-cv-0632 WBS CKD P

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. Petitioner 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 and determines that summary dismissal is appropriate here. Petitioner does not identify the conviction at issue. Also, while petitioner asserts the Superior Court of Yolo County had no jurisdiction to convict him, he fails to point to any facts suggesting as much. Finally, petitioner argues his conviction should be overturned because the Yolo County District Attorney did not file a response to some unidentified administrative action initiated by petitioner, an argument which is frivolous.

Accordingly, IT IS HEREBY RECOMMENDED that petitioner’s petition for a writ of habeas corpus be summarily dismissed.

1 These findings and recommendations are submitted to the United States District Judge
2 assigned to the case, pursuant to the provisions of 28 U.S.C. § 636(b)(1). Within fourteen days
3 after being served with these findings and recommendations, petitioner may file written
4 objections with the court and serve a copy on all parties. Such a document should be captioned
5 “Objections to Magistrate Judge’s Findings and Recommendations.” In his objections petitioner
6 may address whether a certificate of appealability should issue in the event he files an appeal of
7 the judgment in this case. See Rule 11, Federal Rules Governing Section 2254 Cases (the district
8 court must issue or deny a certificate of appealability when it enters a final order adverse to the
9 applicant). Where, as here, a habeas petition is dismissed on procedural grounds, a certificate of
10 appealability “should issue if the prisoner can show: (1) ‘that jurists of reason would find it
11 debatable whether the district court was correct in its procedural ruling;’ and (2) ‘that jurists of
12 reason would find it debatable whether the petition states a valid claim of the denial of a
13 constitutional right.’” Morris v. Woodford, 229 F.3d 775, 780 (9th Cir. 2000) (quoting Slack v.
14 McDaniel, 529 U.S. 473, 484 (2000)). Petitioner is advised that failure to file objections within
15 the specified time may waive the right to appeal the District Court’s order. Martinez v. Ylst, 951
16 F.2d 1153 (9th Cir. 1991).

17 Dated: May 4, 2021



CAROLYN K. DELANEY
UNITED STATES MAGISTRATE JUDGE

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