

UNITED STATES COURT OF APPEALS  
FOR THE NINTH CIRCUIT

FILED

MAY 22 2025

MOLLY C. DWYER, CLERK  
U.S. COURT OF APPEALS

PIERRE HAOBSH,

Plaintiff - Appellant,

v.

SANTA BARBARA COUNTY SHERIFFS  
DEPARTMENT; et al.,

Defendants - Appellees.

No. 25-890

D.C. No.

2:24-cv-09454-JLS-MAA  
Central District of California,  
Los Angeles

ORDER

Before: W. FLETCHER, CALLAHAN, and KOH, Circuit Judges.

After considering the response to the court's March 5, 2025 order and the opening brief, we deny the motion to proceed in forma pauperis (Docket Entry No. 3) and dismiss this appeal as frivolous. *See* 28 U.S.C. § 1915(a), (e)(2).

All other pending motions are denied as moot.

No further filings will be entertained in this closed case.

**DISMISSED.**

UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA

INMATE #: <u>No BS0103</u>	CASE NUMBER
Pierre Haobsh,  v.  Santa Barbara County Sheriffs Department, et al.,	PLAINTIFF(S)  DEFENDANT(S)
<b>ORDER ON REQUEST TO PROCEED WITHOUT PREPAYMENT OF FILING FEES (PRISONER NON-HABEAS CASE)</b>	

The Court has reviewed the Request to Proceed Without Prepayment of Filing Fees (the "Request") and the documents submitted with it. On the question of indigency, the Court finds that Plaintiff:

- is not able to prepay the full filing fee.  is able to prepay the full filing fee.  
 has not submitted enough information for the Court to tell if Plaintiff is able to prepay the full filing fee. This is what is missing:  
 a certified copy of a trust fund statement for the last six months.

**IT IS THEREFORE ORDERED** that:

- The Request is GRANTED. Plaintiff now owes the Court the total filing fee of \$350.00. An initial partial filing fee of \$\_\_\_\_\_ is due immediately; this case may be dismissed if that amount is not received by the Court within 30 days. Thereafter, monthly payments must be forwarded to the Court as provided in 28 U.S.C. § 1915(b)(2).  
 Ruling on the Request is POSTPONED for 30 days so that Plaintiff has the opportunity to provide:  
 the missing information identified above.  
 authorization to disburse funds from the prison trust account.

If Plaintiff does not provide the information or authorization within 30 days, this case may be DISMISSED without prejudice.

- The Request is DENIED because:  
 Plaintiff has the ability to prepay the full filing fee.  
 As explained in the attached statement:  
 Plaintiff has three prior "strikes" but has not plausibly alleged that Plaintiff is in imminent danger of serious physical injury fairly traceable to unlawful conduct alleged in the complaint and redressable by the Court.  
 The District Court lacks subject matter jurisdiction.  
 The action is frivolous or malicious.  
 The action fails to state a claim upon which relief may be granted.  
 The action seeks monetary relief against defendant(s) immune from such relief.

**IT IS FURTHER ORDERED** that:

- Within 30 days of the date of this Order, Plaintiff must do the following:

If Plaintiff does not comply with these instructions within 30 days, this case will be DISMISSED without prejudice.

- As explained in the attached statement, because it is absolutely clear that the deficiencies in the complaint cannot be cured by amendment, this case is hereby DISMISSED  WITHOUT PREJUDICE  WITH PREJUDICE.

December 6, 2024

Honorable Josephine L. Staton

Date

United States District Judge

A plaintiff in a civil action “bears the burden of establishing subject matter jurisdiction.” *Ashoff v. City of Ukiah*, 130 F.3d 409, 410 (9th Cir. 1997). Additionally, a complaint may be dismissed for: (1) the lack of a cognizable legal theory; or (2) the absence of sufficient facts alleged under a cognizable legal theory. See *Robertson v. Dean Witter Reynolds, Inc.*, 749 F.2d 530, 533-34 (9th Cir. 1984).

Under the “favorable termination doctrine” the district court must dismiss a state prisoner’s claim for damages if “judgment in favor of the plaintiff would necessarily imply the invalidity of his conviction or sentence . . . unless the plaintiff can demonstrate that the conviction or sentence has already been invalidated.” *Heck v. Humphrey*, 512 U.S. 477, 486-87 (1994).

Here, Plaintiff raises allegations of “illegal” arrest, officer, prosecutorial, and judicial misconduct, and states that his “entire trial was rigged.” Dkt. 1 at 7-9, 11-13. He seeks \$2.8 billion in damages “with tax exemption” based on two claims of a conspiracy to: (1) manufacture, fabricate, and plant inculpatory evidence, and (2) destroy, suppress, and tamper with evidence from an “illegal search and seizure” in his Santa Barbara criminal case. *Id.* at 15-16. These claims plainly imply the invalidity of Plaintiff’s conviction, and he does not allege that it has been “reversed on direct appeal, expunged by executive order, declared invalid by a state tribunal authorized to make such determination, or called into question by a federal court’s issuance of a writ of habeas corpus.” *Heck*, 512 U.S. at 486-87.

Indeed, Plaintiff admits that his direct appeal has not concluded, and he is also currently seeking habeas relief. Dkt. 1 at 14; Dkt. 5. Accordingly, Plaintiff’s claims are barred by Heck, and he has stated no other facts from which a cognizable claim for relief can be granted. See, e.g., *Smithart v. Towery*, 79 F.3d 951, 952 (9th Cir. 1996) (Heck barred plaintiff’s claims that defendants lacked probable cause to arrest and brought unfounded criminal charges against him); *Trice v. Modesto City Police Dep’t*, No. 1:08-cv-01891-AWI, 2009 WL 102712 (E.D. Cal. Jan. 14, 2009) (fraudulent or fabricated evidence claim, prosecutorial misconduct, and alleged violations of right to counsel are barred by Heck).

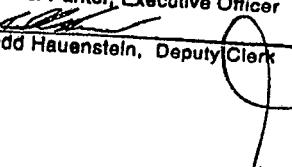
This action is DISMISSED without leave to amend and without prejudice. See *Missouri ex rel. Koster v. Harris*, 847 F.3d 646, 656 (9th Cir. 2017) (“In general, dismissal for lack of subject matter jurisdiction is without prejudice.”); *In re Dynamic Random Access Memory (DRAM) Antitrust Litigation*, 546 F.3d 981, 990 (9th Cir. 2008) (holding amendment is futile where plaintiff could not plead subject matter jurisdiction); *Trimble v. City of Santa Rosa*, 49 F.3d 583, 585 (9th Cir. 1995) (claims that have not yet accrued under Heck should be dismissed without prejudice so plaintiff may reassert them if he ever succeeds in invalidating his conviction).

In light of this dismissal, the request to proceed in forma pauperis (Dkt. 2) is DENIED, and all other pending matters are TERMINATED.

(attach additional pages if necessary)

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FILED  
SUPERIOR COURT of CALIFORNIA  
COUNTY of SANTA BARBARA

MAR 13 2025

Darrel E. Parker, Executive Officer  
BY   
Todd Hauenstein, Deputy Clerk

SUPERIOR COURT OF CALIFORNIA  
FOR THE COUNTY OF SANTA BARBARA

PIERRE HAOBSH,

Petitioner,

v.

STATE OF CALIFORNIA,

Respondent.

} Case No.: 25CR01523

} ORDER DENYING PETITION FOR  
WRIT OF HABEAS CORPUS

Petitioner Pierre Haobsh filed the current Petition for Writ of Habeas Corpus on February 20, 2025. For reasons stated below, the Court denies the petition.

In his petition, Petitioner states the grounds for relief are: 1) Fourteenth Amendment due process violation-The transcript on appeal for Santa Barbara Superior Court Case 31494152 has fraudulent modifications, 2) "5<sup>th</sup> Amendment double jeopardy clause bars prosecution. 14<sup>th</sup> Amendment due process and privileges and immunity clause bars prosecution. Santa Barbara Superior Court exceeded its statutory jurisdiction. Haobsh is held hostage in CDCR custody on void order", 3) Petitioner needs a private investigator to collect affidavits from "Jay Thorson" to attest that Petitioner was not at the crime scene, and 4) "Law enforcement planted evidence in my F-Sport Lexus".

On May 11, 2022, Petitioner filed a Notice of Appeal with the Court of Appeal, Second Appellate District. Petitioner also filed a petition with the United States Supreme Court on August 2, 2024.

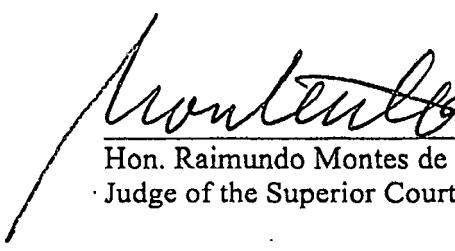
On October 2, 2024, Petitioner's appellate counsel filed a "Wende" brief with the Court of Appeal and Petitioner filed a supplemental brief on that same date. The Court of Appeal, Second

1 Appellate District affirmed the judgment on January 6, 2025. Petitioner then petitioned the appellate  
2 court for a rehearing and the request for rehearing was denied on February 5, 2025.

3 The appellate court has not yet issued a remittitur in this case.

4 Therefore, the Court finds that it has no jurisdiction in this matter. The underlying case is on  
5 direct appeal. The appeal is currently pending until a remittitur issues. "The general rule is that the filing  
6 of a valid notice of appeal vests jurisdiction of the cause in the appellate court until determination of the  
7 appeal and issuance of the remittitur, thereby divesting the trial court of jurisdiction over anything  
8 affecting the judgment. The purpose of the rule depriving the trial court of jurisdiction in a case during a  
9 pending appeal is to protect the appellate court's jurisdiction by preserving the status quo until the  
10 appeal is decided. The rule prevents the trial court from rendering an appeal futile by altering the  
11 appealed judgment ... by conducting other proceedings that may affect it." (*Jackson v. Superior Court*  
12 (2010) 189 Cal. App. 4<sup>th</sup> 1051, 1066). While a case is on appeal, the trial court has no jurisdiction to take  
13 action affecting the judgment. (Code of Civil Procedure Section 916(a); *People v. Johnson* (1992) 3  
14 Cal.4<sup>th</sup> 1183, 1257. The filing of a notice of appeal transfers jurisdiction of a case to the appellate court  
15 until a remittitur is issued. (*People v. Saunoa* (2006) 139 Cal.App.4<sup>th</sup> 870). The remittitur issued by the  
16 appellate court restores jurisdiction to the trial court. (*Saunoa, supra*, at 872). Here, the appeal is still  
17 pending and, as such, no remittitur has issued. Therefore, this Court does not have jurisdiction at this  
18 time.

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22 For the foregoing reasons, the Court denies Petitioner's Petition for Writ of Habeas Corpus.  
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26 Dated: 3/13/2025  
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Hon. Raimundo Montes de Oca  
Judge of the Superior Court