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UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

* * *

JOSEPH CANTRELL,

v.

WASHOE COUNTY SHERIFF DARIN
BALAAM,¹

Respondent.

Case No. 3:23-cv-00174-MMD-CLB

ORDER

I. SUMMARY

This Indian Civil Rights Act habeas matter under 25 U.S.C. § 1303 comes before the Court on a motion to dismiss (ECF No. 31) filed by Respondent, Washoe County Sheriff Darin Balaam (“Sheriff”), as well as motions to stay further detention (ECF Nos. 27, 30) and a motion to stay a tribal court’s ruling in an eviction matter (ECF No. 26) filed by Petitioner Joseph Cantrell. This order resolves these pending motions.

II. BACKGROUND

Cantrell is challenging a conviction and sentence entered in the Pyramid Lake Tribal Court. (ECF No. 20.) He is incarcerated at the Washoe County Detention Facility under an agreement between the Washoe County Sheriff’s Office and the Bureau of Indian Affairs. With his petition, he alleges, among other things, that he was deprived of his right to a speedy trial and to effective assistance of counsel in the tribal court proceeding that resulted in his conviction and sentence.

¹While the caption of previous orders in this case identified the Respondent as the “Washoe County Sheriff Detention Facility,” the Court directed the U.S. Marshals Service to serve Petitioner’s habeas petition on Darin Balaam, the Washoe County Sheriff. (ECF No. 21.) Such service having occurred on October 12, 2023 (ECF No. 25), Sheriff Balaam is the Respondent in this case.

1 **III. THE SHERIFF’S MOTION TO DISMISS**

2 In the motion to dismiss, the Sheriff contends Washoe County cannot respond to
3 the claims raised in Cantrell's petition because Washoe County did not participate in
4 Cantrell’s underlying criminal case. In particular, he claims “it would be inappropriate for
5 Respondent Washoe County to attempt to defend or address Petitioner’s grounds for
6 relief that are . . . questioning the validity of his conviction or sentence by a sovereign
7 jurisdiction like the Pyramid Lake Tribe.” (ECF No. 31 at 3.) The Court disagrees.

8 Under the immediate custodian rule applicable in general habeas proceedings that
9 challenge a petitioner’s current confinement, the petitioner’s immediate physical
10 custodian clearly is the proper respondent. *See generally Rumsfeld v. Padilla*, 542 U.S.
11 426 (2004). Thus, while Washoe County is holding Cantrell on behalf of the Pyramid Lake
12 Tribe, the Sheriff is nonetheless required to respond to Cantrell’s petition. Based on the
13 Sheriff’s recent motion for an extension of time, his counsel have been in communication
14 with the tribal prosecutor about formulating a response to Cantrell’s petition. (See ECF
15 No. 28.) In addition, the Court notified the tribal prosecutor of this action over two months
16 ago.² It is up to the tribal prosecutor to decide whether she wants to assist the Sheriff in
17 this matter, but if the Sheriff is unable to respond to Cantrell’s petition, he will be directed
18 to release Cantrell from custody.

19 The Sheriff also argues in his motion to dismiss that Ground Five of Cantrell’s
20 habeas petition should be dismissed because it challenges Cantrell’s conditions of
21 confinement, not the legality or duration of his contention. The Court agrees. *See Preiser*
22 *v. Rodriguez*, 411 U.S. 475, 484 (1973); *Badea v. Cox*, 931 F.2d 573, 574 (9th Cir. 1991).
23 Ground Five is dismissed from Cantrell’s petition.

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26 ²The Court directed the Clerk of Court to provide the Pyramid Lake Tribal
27 Prosecutor a courtesy copy of Cantrell’s petition in an order entered on September 5,
28 2023. (ECF No. 21.)

1 **IV. CANTRELL'S MOTIONS**

2 With his motions to stay further detention (ECF Nos. 27, 30), Cantrell asks the
3 Court to grant him immediate release from custody. Default judgments are disfavored in
4 habeas corpus cases. *Bleitner v. Weiborn*, 15 F.3d 652, 653 (7th Cir.1994); *Gordon v.*
5 *Duran*, 895 F.2d 610, 612 (9th Cir.1990) (stating “[t]he failure to respond to claims raised
6 in a petition for habeas corpus does not entitle the petitioner to a default judgment”). Thus,
7 the Court is not prepared to grant Cantrell relief before receiving a substantive response
8 to the allegations in his petition.

9 Cantrell’s motion to stay a tribal court’s ruling in an eviction matter (ECF No. 26)
10 must also be denied. This matter is confined to testing the legality of Cantrell’s detention.
11 See 25 U.S.C. § 1303. Thus, this Court lacks authority to grant Cantrell the relief he seeks
12 with this motion.

13 **V. CONCLUSION**

14 It is therefore ordered that the Sheriff’s motion to dismiss (ECF No. 31) is granted
15 in part and denied in part. Ground Five is dismissed from Cantrell’s petition. In all other
16 respects, the motion is denied.

17 It is further ordered that the Sheriff must file and serve an answer to Cantrell’s
18 petition (ECF No. 20) on or before November 29, 2023.

19 It is further ordered that the Clerk of Court send, by U.S. Mail, a copy of this order
20 to the Pyramid Lake Tribal Prosecutor, P.O. Box 256, Nixon, Nevada 89424.

21 It is further ordered that Cantrell’s motions to stay further detention (ECF Nos. 27,
22 30) and a motion to stay a tribal court’s ruling in an eviction matter (ECF No. 26) are
23 denied.

24 It is further ordered that Cantrell’s motion to extend time (ECF No. 22) is denied as
25 moot.

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It is further ordered that Cantrell's motion in part inquiring about the status of his motion to stay (ECF No. 33) is denied as moot.

DATED THIS 17th Day of November 2023.



MIRANDA M. DU
CHIEF UNITED STATES DISTRICT JUDGE