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UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF CALIFORNIA

ANTHONY WAYNE OLIVER,  
Petitioner,  
v.  
E. ARNOLD,  
Respondent.

No. 2:14-cv-2364 GEB CKD P

FINDINGS AND RECOMMENDATIONS

In this habeas action pursuant to 28 U.S.C. § 2254, petitioner challenges a 2012 disciplinary conviction for which he was assessed a 360-day loss of credits. (ECF No. 1 at 5, 91-95.) Petitioner is serving a state prison term of 33 years to life pursuant to a 1984 criminal conviction. (Id. at 1-2.) In 2014, the petition was briefed on the merits. (ECF Nos. 10 & 13.)

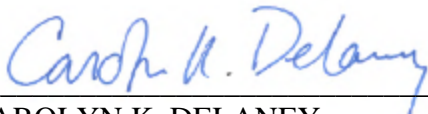
On September 29, 2015, the undersigned directed the parties to file supplemental briefs on the issue of jurisdiction under the Ninth Circuit’s recent decision, Nettles v. Grounds, 788 F.3d 992 (9th Cir. 2015). The parties have done so. (ECF Nos. 15 & 17.)

As petitioner is serving an indeterminate sentence, a grant of relief in this action would not result in his speedier release from prison. See Nettles, 788 F.3d at 1004. Moreover, as he is no longer in segregated housing pursuant to the challenged conviction, relief in this action would not cause a reduction of the level of custody. See id. at 1005. Under the circumstances, the parties agree that Nettles precludes federal habeas jurisdiction over this action.

1           Accordingly, IT IS HEREBY RECOMMENDED that the petition be dismissed for lack of  
2 jurisdiction.

3           These findings and recommendations are submitted to the United States District Judge  
4 assigned to the case, pursuant to the provisions of 28 U.S.C. § 636(b)(1). Within fourteen days  
5 after being served with these findings and recommendations, any party may file written  
6 objections with the court and serve a copy on all parties. Such a document should be captioned  
7 “Objections to Magistrate Judge’s Findings and Recommendations.” In his objections petitioner  
8 may address whether a certificate of appealability should issue in the event he files an appeal of  
9 the judgment in this case. See Rule 11, Federal Rules Governing Section 2254 Cases (the district  
10 court must issue or deny a certificate of appealability when it enters a final order adverse to the  
11 applicant). The parties are advised that failure to file objections within the specified time may  
12 waive the right to appeal the District Court’s order. Martinez v. Ylst, 951 F.2d 1153 (9th Cir.  
13 1991).

14 Dated: November 4, 2015

  
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CAROLYN K. DELANEY  
UNITED STATES MAGISTRATE JUDGE

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