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8	UNITED STATES DISTRICT COURT	
9	FOR THE EASTERN DISTRICT OF CALIFORNIA	
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11	KURT WASHINGTON,	No. 2:14-cv-2620-MCE-EFB P
12	Petitioner,	
13	V.	FINDINGS AND RECOMMENDATIONS
14	RONALD RACKLEY,	
15	Respondent.	
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17	Petitioner is a state prisoner proceeding without counsel in an action brought under 28	
18	U.S.C. § 2254. Respondent moves to dismiss the petition on the several grounds. ECF No. 10.	
19	As discussed below, the court lacks jurisdiction over the petition and it must be dismissed.	
20	I. Background	
21	Petitioner is serving an indeterminate life sentence in California prison. ECF No. 1 at 1;	
22	ECF No. 10-2 at 8. He challenges a prison disciplinary determination that he had committed	
23	gang activity and the attendant forfeiture of 30-days' good-time credit assessed against him. ECF	
24	No. 1 at 4; ECF No. 10-2 at 30. The parties do not dispute that petitioner's "minimum eligible	
25	parole date" ("MEPD") under California law had passed at the time the discipline was imposed.	
26	ECF No. 10-2 at 2; ECF No. 15.	
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II.

The Motion to Dismiss

Respondent argues, among other things, that this case lies outside of the court's power to
issue a writ of habeas corpus. Because that petition must be dismissed on this ground alone, the
court need not address respondent's additional arguments.

5 In Nettles v. Grounds, 788 F.3d 992 (9th Cir. 2015) and Blair v. Martel, 645 F.3d 1151 6 (9th Cir. 2011), the Ninth Circuit concluded that federal courts have jurisdiction to issue writs of 7 habeas corpus only in those cases where the petitioner's success would mandate termination of 8 his custody, acceleration of his future date of release from custody, or a reduction in the level of 9 his custody, relying on language in the U.S. Supreme Court's opinion in Skinner v. Switzer, 562 10 U.S. 521, 131 S. Ct. 1289 (2011). Success on the petition here would accomplish none of these 11 results. Indeed, one petitioner in *Nettles* was situated similarly to petitioner here in all relevant 12 respects: he was assessed a 30-day forfeiture of credits as a result of the discipline he sought to 13 challenge, he was serving an indeterminate life sentence, and his MEPD had passed at the time 14 the credit-forfeiture was imposed. 788 F.3d at 995-97. The Court of Appeals concluded that the 15 effect of expungement of the petitioner's disciplinary infraction on his release date was "too 16 attenuated" to show that success in his petition would mandate his earlier release. Id. at 1003. 17 The same reasoning applies here. As in *Nettles*, restoration of the lost credits would not impact 18 petitioner's MEPD because it had passed at the time the forfeiture was assessed. Id. at 1003-04. 19 And, as in *Nettles*, the disciplinary finding petitioner challenges is "merely one factor the parole 20 board considers to determine whether" petitioner will be suitable for parole; it is not 21 determinative. *Id.* at 1003. Petitioner has provided the court with no reasoned basis for 22 differentiating this case from *Nettles*, and the court is accordingly bound to apply that case here. 23 III. **Conclusion and Recommendation**

Because this case falls outside the reach of the federal habeas corpus statute as interpreted
by the Ninth Circuit in *Nettles v. Grounds*, the undersigned recommends that the petition be
dismissed.¹

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 ¹ Petitioner asks the court to allow him to "amend his petition to a § 1983 action."
 ²⁸ Because § 1983 plaintiffs must pay a different (and considerably larger) filing fee to initiate suit,

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)(l). Within fourteen days	
3	after being served with these findings and recommendations, any party 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." Any reply to the objections	
6	shall be served and filed within fourteen days after service of the objections. Failure to file	
7	objections within the specified time may waive the right to appeal the District Court's order.	
8	Turner v. Duncan, 158 F.3d 449, 455 (9th Cir. 1998); Martinez v. Ylst, 951 F.2d 1153 (9th Cir.	
9	1991). In his objections petitioner may address whether a certificate of appealability should issue	
10	in the event he files an appeal of the judgment in this case. See Rule 11, Rules Governing Section	
11	2254 Cases (the district court must issue or deny a certificate of appealability when it enters a	
12	final order adverse to the applicant).	
13	DATED: January 12, 2016.	
14	EDMUND F. BRENNAN	
15	UNITED STATES MAGISTRATE JUDGE	
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27	it is recommended that this action be dismissed. If petitioner wishes to pursue the claims he	
28	raises here in a civil rights case, he may file a new case as such.	
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