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IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ARIZONA

Rick Steele Sagaser, Jr.,)	
)	
Petitioner,)	No. CV-08-1267-PHX-PGR (GEE)
vs.)	
)	
Dora B. Schriro, et al.,)	<u>ORDER</u>
)	
Respondents.)	

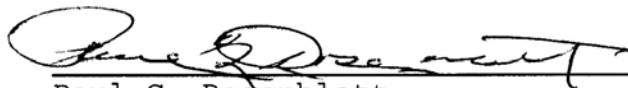
Having considered *de novo* the Report and Recommendation of Magistrate Judge Edmonds notwithstanding that no party has filed any objection to the Report and Recommendation, the Court finds that the Magistrate Judge correctly determined that the petitioner’s Petition for a Writ of Habeas Corpus, filed pursuant to 28 U.S.C. § 2254, must be denied because the claim underlying the petition, *i.e.* that the petitioner is being held in custody past the expiration date of his state court sentence, has not been exhausted given that the petitioner, as he concedes, has not submitted it to the Arizona courts for resolution, and because the petition fails to state a federally cognizable claim as it is based on an alleged misapplication of state sentencing laws that does not rise to the level of fundamental unfairness. Therefore,

IT IS ORDERED that the Magistrate Judge’s Report and Recommendation

1 (doc. #12) is accepted and adopted by the Court.

2 IT IS FURTHER ORDERED that the petitioner's Petition Under 28 U.S.C.
3 § 2254 for a Writ of Habeas Corpus by a Person in State Custody is denied and
4 that this action is dismissed. The Clerk of the Court shall enter judgment
5 accordingly.

6 DATED this 14th day of January, 2009.

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10 Paul G. Rosenblatt
11 United States District Judge
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