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**UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA**

KENT CRAIG,	)	NO. ED CV 17-2198-PA(E)
	)	
Petitioner,	)	
	)	
v.	)	REPORT AND RECOMMENDATION OF
	)	
SHAWN HATTON, Warden,	)	UNITED STATES MAGISTRATE JUDGE
	)	
Respondent.	)	
	)	
	)	

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This Report and Recommendation is submitted to the Honorable Percy Anderson, United States District Judge, pursuant to 28 U.S.C. section 636 and General Order 05-07 of the United States District Court for the Central District of California.

**PROCEEDINGS**

Petitioner filed a "Petition for Writ of Habeas Corpus By a Person in State Custody" on October 25, 2017. The Petition challenges only Petitioner's restitution obligation. Petitioner contends that the criminal judgment imposing restitution has "elapsed" because

1 the judgment assertedly was not renewed within the ten-year period  
2 provided in California Code of Civil Procedure section 683.020.<sup>1</sup> It  
3 plainly appears from the face of the Petition that this Court lacks  
4 jurisdiction to grant habeas relief to Petitioner. Therefore, the  
5 Petition should be denied and dismissed without prejudice pursuant to  
6 Rule 4 of the Rules Governing Section 2254 Cases in the United States  
7 District Courts.

8  
9 **DISCUSSION**

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11 Federal habeas corpus relief may be granted "only on the ground  
12 that [Petitioner] is in custody in violation of the Constitution or  
13 laws or treaties of the United States." 28 U.S.C. § 2254(a). Section  
14 2254(a)'s "in custody" requirement is jurisdictional. Bailey v. Hill,  
15 599 F.3d 976, 978 (9th Cir. 2010) (citation omitted). Physical  
16 custody alone is insufficient to confer habeas jurisdiction. Id. at  
17 980. Rather, there must be a nexus between the petitioner's claim and  
18 the allegedly unlawful nature of the custody. Id. A federal habeas  
19 court lacks jurisdiction over a challenge to the non-custodial  
20 component(s) of a sentence. Id. Accordingly, section 2254(a) "does  
21 not confer jurisdiction over a state prisoner's in-custody challenge  
22 to a restitution order imposed as part of a criminal sentence." Id.  
23 at 982; see also Rodriguez v. Cate, 475 Fed. App'x 679, at \*1 (9th  
24 Cir. 2012) (California state prisoner's habeas challenge to

25 \_\_\_\_\_  
26 <sup>1</sup> Section 683.020 provides that a money judgment may not  
27 be enforced after the expiration of ten years. Upon application  
28 by the judgment creditor, a judgment may be renewed prior to the  
expiration of the ten-year period. See Cal. Civ. Proc. Code §  
683.130 et seq.



1 **NOTICE**

2 Reports and Recommendations are not appealable to the Court of  
3 Appeals, but may be subject to the right of any party to file  
4 objections as provided in the Local Rules Governing the Duties of  
5 Magistrate Judges and review by the District Judge whose initials  
6 appear in the docket number. No notice of appeal pursuant to the  
7 Federal Rules of Appellate Procedure should be filed until entry of  
8 the judgment of the District Court.

9 If the District Judge enters judgment adverse to Petitioner, the  
10 District Judge will, at the same time, issue or deny a certificate of  
11 appealability. Within twenty (20) days of the filing of this Report  
12 and Recommendation, the parties may file written arguments regarding  
13 whether a certificate of appealability should issue.

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