1		
1 2		
2		
3		
5		
6		
7		
8	UNITED STAT	ES DISTRICT COURT
9	EASTERN DISTRICT OF CALIFORNIA	
10		
11	RICKEY LEE CHATMAN, JR.,) Case No.: 1:21-cv-00802-JLT (HC)
12	Petitioner,) ORDER DIRECTING CLERK OF COURT TO
13	V.	ASSIGN DISTRICT JUDGE
14	THE STATE OF CALIFORNIA,	 FINDINGS AND RECOMMENDATION TO DISMISS PETITION FOR WRIT OF MANDAMUS
15	Respondent.	
16) [THIRTY-DAY OBJECTION DEADLINE]
17	On May 17, 2021, Petitioner filed a petition for writ of mandamus pursuant to 28 U.S.C. §	
18	1361. For the following reasons, the Court will recommend the petition be DISMISSED WITH	
19	PREJUDICE.	
20	DISCUSSION	
21	The All Writs Act, codified at 28 U.S.C. § 1651(a), provides that "[t]he Supreme Court and all	
22	courts established by Act of Congress may issue all writs necessary or appropriate in aid of their	
23	respective jurisdictions and agreeable to the usages and principles of law." The federal mandamus	
24	statute set forth at 28 U.S.C. § 1361 provides: "The district courts shall have original jurisdiction of	
25	any action in the nature of mandamus to compe	l an officer or employee of the United States or any
26	agency thereof to perform a duty owed to the plaintiff." 28 U.S.C. § 1361. Mandamus relief is only	
27	available to compel an officer of the United States to perform a duty if (1) the petitioner's claim is	
28	clear and certain; (2) the duty of the officer "is n	ministerial and so plainly prescribed as to be free from
		1

2

1

doubt," <u>Tagupa v. East-West Center, Inc.</u>, 642 F.2d 1127, 1129 (9th Cir.1981) (quoting <u>Jarrett v.</u> <u>Resor</u>, 426 F.2d 213, 216 (9th Cir.1970)); and (3) no other adequate remedy is available. <u>Piledrivers'</u> <u>Local Union No. 2375 v. Smith</u>, 695 F.2d 390, 392 (9th Cir.1982).

3

Petitioner outlines the previous filings of petitions for writ of habeas corpus and petition for 4 writ of mandate that he takes issue with and discusses his disagreement with same. (See Doc. 1 at 1-5 17.) Petitioner makes various claims related to, among other things, alleged new evidence, witness 6 tampering and obstruction of justice, and he further argues for an evidentiary hearing. (See id.) 7 8 However, it appears that Petitioner is attempting to reargue previous claims, which have been 9 addressed previously. Furthermore, mandamus relief is not available because Respondent is not an 10 officer, employee or agency of the United States. Title 28 U.S.C. § 1651(a) does not vest a federal district court with the power to compel performance of a state court, judicial officer, or another state 11 12 official's duties under any circumstances. Pennhurst State Sch. & Hosp. v. Halderman, 465 U.S. 89, 106 (1984) (11th Amendment prohibits federal district court from ordering state officials to conform 13 14 their conduct to state law). Thus, a petition for mandamus to compel a state official to take or refrain 15 from some action is frivolous as a matter of law. Demos v. U.S. District Court, 925 F.2d 1160, 1161-16 72 (9th Cir.1991); Robinson v. California Bd. of Prison Terms, 997 F.Supp. 1303, 1308 17 (C.D.Cal.1998) (federal courts are without power to issue writs of mandamus to direct state agencies in the performance of their duties); Dunlap v. Corbin, 532 F.Supp. 183, 187 (D.Ariz.1981) (plaintiff 18 19 sought order from federal court directing state court to provide speedy trial), aff'd without opinion, 673 F.2d 1337 (9th Cir.1982). 20

ORDER

RECOMMENDATION

The Clerk of Court is DIRECTED to assign a District Judge to the case.

22 ||

21

23

24

25

For the foregoing reasons, the Court RECOMMENDS that the petition be DISMISSED WITH PREJUDICE as frivolous.

This Findings and Recommendation is submitted to the United States District Court Judge
assigned to the case, pursuant to the provisions of 28 U.S.C. § 636 (b)(1)(B) and Rule 304 of the Local
Rules of Practice for the United States District Court, Eastern District of California. Within thirty

1	days after being served with a copy of this Findings and Recommendation, Petitioner may file written		
2	objections with the Court and serve a copy on all parties. Such a document should be captioned		
3	"Objections to Magistrate Judge's Findings and Recommendation." The Court will then review the		
4	Magistrate Judge's ruling pursuant to 28 U.S.C. § 636 (b)(1)(C). Petitioner is advised that failure to		
5	file objections within the specified time may waive the right to appeal the Order of the District Court.		
6	Martinez v. Ylst, 951 F.2d 1153 (9th Cir. 1991).		
7			
8	IT IS SO ORDERED.		
9	Dated: June 4, 2021 /s/ Jennifer L. Thurston		
10	CHIEF UNITED STATES MAGISTRATE JUDGE		
11			
12			
13			
14			
15			
16			
17			
18			
19			
20			
21			
22			
23			
24			
25			
26			
27			
28			
	3		