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**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA**

TONY CAMPBELL,

No. CIV S-05-2249-LKK-CMK-P

Petitioner,

vs.

ORDER

E. BORBA,

Respondent.

_____ /

Petitioner, a state prisoner proceeding pro se, brings this petition for a writ of habeas corpus pursuant to 28 U.S.C. § 2254. Pending before the court is petitioner’s petition for a writ of habeas corpus (Doc. 1), filed on November 4, 2005.


Rule 4 of the Federal Rules Governing Habeas Corpus 2254 Cases provides for summary dismissal of a habeas petition “[i]f it plainly appears from the face of the petition and any exhibits annexed to it that the petitioner is not entitled to relief in the district court.” In the instant case, it is plain that petitioner is not entitled to federal habeas relief. Specifically, with respect to the name and location of the court which entered the judgment petitioner seeks to challenge, petitioner states “N/A.” Similarly, as to the date of the judgment of conviction, length of sentence, and nature of the offenses involved, petitioner states “N/A.” In his petition,

1 petitioner states that he filed a notice of appeal in Eastern District of California case no. CIV S-
2 05-0452-LKK-DAD-P, but that the Ninth Circuit Court of Appeals “refused” the appeal because
3 it was not taken in good faith. For the facts which support petitioner’s claim, petitioner states:
4 “My appeal was refused for no reason.” Petitioner is seeking, via the instant petition, to
5 challenge a decision of the Ninth Circuit. Thus, it plainly appears from the face of the instant
6 petition that petition is not entitled to relief.

7 Based on the foregoing, the undersigned recommends that petitioner’s petition for
8 a writ of habeas corpus be summarily dismissed.

9 These findings and recommendations are submitted to the United States District
10 Judge assigned to the case, pursuant to the provisions of 28 U.S.C. § 636(b)(1). Within ten days
11 after being served with these findings and recommendations, any party may file written
12 objections with the court. The document should be captioned “Objections to Magistrate Judge's
13 Findings and Recommendations.” Failure to file objections within the specified time may waive
14 the right to appeal the District Court's order. Martinez v. Ylst, 951 F.2d 1153 (9th Cir. 1991).

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16 DATED: December 5, 2005.

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19 **CRAIG M. KELLISON**
20 UNITED STATES MAGISTRATE JUDGE
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