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

TERRY JAY MEYERS,

Petitioner,

No. CIV S-08-2866 MCE DAD P

vs.

PAM AHLIN, Executive Director,

FINDINGS & RECOMMENDATIONS

Respondent.

\_\_\_\_\_ /

Petitioner, a state prisoner proceeding pro se, has filed an application for a writ of habeas corpus pursuant to 28 U.S.C. § 2254. Petitioner has paid the filing fee. On March 12, 2009, this court dismissed petitioner’s original petition for writ of habeas corpus and granted him leave to file an amended petition within thirty days of that order. On April 1, 2009, petitioner filed a motion for reconsideration. On April 13, 2009, the assigned district judge in this action affirmed the undersigned’s order. On April 23, 2009, this court granted petitioner thirty days to file an amended petition in accordance with the court’s March 12, 2009 order. Petitioner filed an amended petition on April 30, 2009.

In his amended petition for writ of habeas corpus, petitioner alleges as follows. On February 14, 2008, he submitted to the Shasta County Superior Court a petition for writ of habeas corpus, raising issues that were relevant to a then pending civil commitment trial being

1 conducted pursuant to California’s Sexually Violent Predator Act. On February 21, 2008,  
2 petitioner was transferred from Coalinga State Hospital to the Shasta County Jail for appearance  
3 at trial. During those proceedings, petitioner informed the presiding Superior Court Judge that he  
4 had filed a petition for writ of habeas corpus in the Superior Court. According to petitioner, the  
5 judge conducted a cursory review of the petition, determined that the issues therein were  
6 identical to the issues that would be addressed in the civil commitment trial, and orally denied  
7 the petition. On February 28, 2008, petitioner was indeterminately committed to the custody of  
8 the California Department of Mental Health. (Amended Memorandum of Points and Authorities  
9 in Support of Amended Habeas Corpus Petition (P&A), at 2-3.)

10 On or about May 9, 2008, petitioner filed a petition for writ of habeas corpus with  
11 the California Court of Appeal for the Third Appellate District. Petitioner also filed a petition for  
12 a writ of mandate to compel the Shasta County Superior Court to provide him with a written  
13 response to his habeas petition so that he could appeal that court’s denial of the petition. On June  
14 2, 2008, petitioner received from the California Court of Appeal a one-line order denying his  
15 petition for writ of mandate. (Id. at 3.) Subsequently, petitioner filed a petition for writ of  
16 habeas corpus in the California Supreme Court. On September 24, 2008, the California Supreme  
17 Court summarily denied the petition. (Supplemental Pleading, filed November 26, 2008, Ex. A.)

18 Petitioner asserts the following four claims in his federal habeas petition before  
19 this court: (1) the Shasta County Superior Court’s summary denial of his habeas petition without  
20 a hearing denied him procedural due process under the United States Constitution and California  
21 Constitution (Pet. at 4, P&A at 4-12); (2) the Shasta County Superior Court’s failure to “address  
22 the issues” set forth in his habeas petition denied him the right to due process (Pet. at 4; P&A at  
23 12-13); (3) the Shasta County Superior Court’s failure to comply with the California Rules of  
24 Court when it did not provide petitioner with a “reasoned opinion” on his habeas petition denied  
25 him the right to due process (Pet. at 5; P&A at 13-20); and (4) the failure of the Shasta County  
26 Superior Court to provide him with a written decision on his habeas petition denied him the right

1 to appeal that decision and demonstrated deliberate indifference to his rights and the governing  
2 legal standards for habeas corpus. (Pet. at 5; P&A at 13-20.)<sup>1</sup>

3           The allegations in the pending petition fail to state a cognizable federal claim for  
4 habeas relief. As petitioner has been advised, a writ of habeas corpus is available under 28  
5 U.S.C. § 2254 only on the basis of some transgression of federal law binding on the state courts.  
6 See Peltier v. Wright, 15 F.3d 860, 861 (9th Cir. 1993); Middleton v. Cupp, 768 F.2d 1083, 1085  
7 (9th Cir. 1985) (citing Engle v. Isaac, 456 U.S. 107, 119 (1982)). A federal writ is not available  
8 for alleged error in the interpretation or application of state law. See Estelle v. McGuire, 502  
9 U.S. 62, 67-68 (1991); Park v. California, 202 F.3d 1146, 1149 (9th Cir. 2000); Middleton, 768  
10 F.2d at 1085. Specifically, errors in state post-conviction review proceedings are not addressable  
11 through federal habeas corpus. Hubbart v. Knapp, 379 F.3d 773, 779 (9th Cir. 2004) (“[A]  
12 petition alleging errors in the state post-conviction review process is not addressable through  
13 habeas corpus proceedings.”); Franzen v. Brinkman, 877 F.2d 26 (9th Cir. 1989) (same); Ochoa  
14 v. John Ontiveros, No. CV-05-3787-PHX-DGC (DKD), 2009 WL 1125320, at \*8 (D. Ariz. April  
15 27, 2009) (same). Petitioner is not directly challenging his civil commitment under California's  
16 Sexually Violent Predator Act. Rather, his allegations concern the state courts' failure to issue a  
17 reasoned decision in response to his habeas petitions filed in state court. Such allegations do not  
18 state a cognizable claim in federal habeas corpus.

19           Accordingly, IT IS HEREBY RECOMMENDED that petitioner's application for a  
20 writ of habeas corpus be dismissed for failure to state a cognizable claim.

21           These findings and recommendations will be submitted to the United States  
22 District Judge assigned to this case, pursuant to the provisions of 28 U.S.C. § 636(b)(1). Within  
23 twenty days after being served with these findings and recommendations, petitioner may file  
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25           <sup>1</sup> Although not entirely clear, petitioner may also be attempting to challenge the actions  
26 of the California Court of Appeal and California Supreme Court in issuing summary denials of  
his habeas petitions filed in those courts.

1 written objections with the court. The document should be captioned "Objections to Findings  
2 and Recommendations." Petitioner is advised that failure to file objections within the specified  
3 time may waive the right to appeal the District Court's order. Martinez v. Ylst, 951 F.2d 1153  
4 (9th Cir. 1991).

5 DATED: September 30, 2009.

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9 DALE A. DROZD  
10 UNITED STATES MAGISTRATE JUDGE

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