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

ALEXIS RAESHAUN BELL,

Petitioner,

No. CIV-09-0755 GEB KJM P

vs.

KATHLEEN DICKINSON,

Respondent.

FINDINGS AND RECOMMENDATIONS

\_\_\_\_\_/

Petitioner is a California prisoner proceeding with an application for writ of habeas corpus under 28 U.S.C. § 2254. She asserts that rights arising under the Fourteenth Amendment were violated during prison disciplinary proceedings during which she was found guilty of theft of state property. Respondent has filed a motion to dismiss in which respondent argues that the court does not have jurisdiction over petitioner’s claims.

This court may entertain an application for writ of habeas corpus by a state prisoner only on the ground that the prisoner is in custody in violation of the Constitution or some other federal law. 28 U.S.C. § 2254; cf. 42 U.S.C. § 1983. Here, the parties agree that petitioner’s prison sentence has not been increased by the disciplinary proceedings at issue. Mot. at 3:4-17; Opp’n at 3:19-21. Therefore, the court does not have jurisdiction to issue a writ of habeas corpus and respondent’s motion to dismiss should be granted.

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Accordingly, IT IS HEREBY RECOMMENDED that:

1. Respondent's motion to dismiss (#10) be granted; and
2. This case be dismissed.

These findings and recommendations are submitted to the United States District Judge assigned to the case, pursuant to the provisions of 28 U.S.C. § 636(b)(1). Within twenty days after being served with these findings and recommendations, any party may file written objections with the court and serve a copy on all parties. Such a document should be captioned "Objections to Magistrate Judge's Findings and Recommendations." Any reply to the objections shall be served and filed within ten days after service of the objections. The parties are advised that failure to file objections within the specified time may waive the right to appeal the District Court's order. Martinez v. Ylst, 951 F.2d 1153 (9th Cir. 1991).

DATED: August 25, 2009.

  
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U.S. MAGISTRATE JUDGE

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