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

CARL F. HARRISON,

Petitioner,

No. CIV S-10-0547 FCD KJM P

vs.

DIRECTOR OF CALIFORNIA  
DEPARTMENT OF CORRECTIONS  
AND REHABILITATION, et al.,

Respondent.

FINDINGS AND RECOMMENDATIONS

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Petitioner, a state prisoner proceeding pro se, has filed a petition for a writ of habeas corpus pursuant to 28 U.S.C. § 2254. Petitioner complains about destruction of some of his legal property. A petition for writ of habeas corpus can only be granted upon a finding that the habeas petitioner is being held in custody in violation of the Constitution or some other federal law. See 28 U.S.C. § 2254(a). Petitioner fails to allege that he is in custody in violation of federal law. Therefore, this action must be dismissed. It may be that petitioner has grounds to pursue an action for violation of civil rights under 42 U.S.C. § 1983. If petitioner elects to file a § 1983 action, he will be required to pay the \$350 filing fee, in installments at least.

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1 In accordance with the above, IT IS HEREBY RECOMMENDED that:

- 2 1. Petitioner’s application for writ of habeas corpus be dismissed; and
- 3 2. This case be closed.

4 These findings and recommendations are submitted to the United States District  
 5 Judge assigned to the case, pursuant to the provisions of 28 U.S.C. § 636(b)(1). Within twenty-  
 6 one days after being served with these findings and recommendations, plaintiff may file written  
 7 objections with the court. Such a document should be captioned “Objections to Magistrate  
 8 Judge’s Findings and Recommendations.” Plaintiff is advised that failure to file objections  
 9 within the specified time may waive the right to appeal the District Court’s order. Martinez v.  
 10 Ylst, 951 F.2d 1153 (9th Cir. 1991).

11 DATED: November 19, 2010.



U.S. MAGISTRATE JUDGE

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