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UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF CALIFORNIA

DAVID E. EDWARDS,  
Petitioner,  
v.  
GARY SWARTHOUT,  
Respondent.

No. 2:13-cv-1651-WBS-EFB P

ORDER GRANTING IFP AND FINDINGS  
AND RECOMMENDATIONS TO  
SUMMARILY DISMISS THE PETITION

Petitioner, a state prisoner proceeding through counsel, has filed a petition for a writ of habeas corpus.<sup>1</sup> See 28 U.S.C. § 2254. Petitioner’s sole claim for relief is that the California Department of Corrections and Rehabilitation (CDCR) has unconstitutionally applied the credit limitation of California Penal Code § 2933.1 to his sentence in violation of his Fourteenth Amendment right to due process. See Petition, ECF No. 1. The court has reviewed the petition as required by Rule 4 of the Rules Governing Section 2254 Proceedings, and finds that it must be summarily dismissed. See Rule 4, Rules Governing § 2254 Cases (requiring summary dismissal of habeas petition if, upon initial review by a judge, it plainly appears “that the petitioner is not entitled to relief in the district court”).

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<sup>1</sup> Petitioner seeks leave to proceed in forma pauperis. See 28 U.S.C. § 1915(a). Examination of the in forma pauperis affidavit reveals that petitioner is unable to afford the costs of suit.

1           The question of whether CDCR has or has not properly limited petitioner’s accrual of  
2 work credits is not cognizable as a claim for federal habeas relief, as it is not the role of the  
3 federal habeas court to clarify or correct the application of state law. *See Estelle v. McGuire*, 502  
4 U.S. 62, 67 (1991) (“We have stated many times that federal habeas corpus relief does not lie for  
5 errors of state law”) (internal quotations omitted); *see also Craft v. Gower*, No. 2:12-cv-2827-  
6 DAD, 2013 U.S. Dist. LEXIS 134333, at \*7-8 (E.D. Cal. Sept. 18, 2013) (summarily dismissing  
7 petitioner’s claim that that CDCR had erroneously applied § 2933.1 to his case); *Cochran v. Diaz*,  
8 No. 1:13-cv-00551-AWI-GSA, 2013 U.S. Dist. LEXIS 109156, at \*3-4 (E.D. Cal. Aug. 2, 2013)  
9 (“Petitioner states that the CDCR has determined that he cannot earn good time credits against his  
10 sentence pursuant to Cal. Penal Code § 2933, because Petitioner committed crimes which do not  
11 allow for the earning of such credits . . . . The essence of Petitioner’s claim concerns the  
12 interpretation and application of state statute, and generally, issues of state law are not cognizable  
13 on federal habeas.”).

14           Furthermore, petitioner does not have a protected liberty interest in earning worktime  
15 credits to reduce his sentence. *See California Penal Code § 2933(c)* (“Credit is a privilege, not a  
16 right.”); *Kalka v. Vasquez*, 867 F.2d 546, 547 (9th Cir. 1989) (“[S]ection 2933 does not create a  
17 constitutionally protected liberty interest.”). Therefore, despite petitioner’s framing of his claim  
18 as a violation of his right to due process under the Fourteenth Amendment, it is subject to  
19 summary dismissal. *See Craft*, 2013 U.S. Dist. LEXIS 134333 at \*8-9


20           Accordingly, it is hereby ORDERED that petitioner’s request for leave to proceed in  
21 forma pauperis (ECF No. 2) is granted.

22           Further, it is hereby RECOMMENDED that this action be summarily dismissed pursuant  
23 to Rule 4 of the Rules Governing Habeas Corpus Cases Under 28 U.S.C. § 2254.

24           These findings and recommendations are submitted to the United States District Judge  
25 assigned to the case, pursuant to the provisions of 28 U.S.C. § 636(b)(1). Within fourteen days  
26 after being served with these findings and recommendations, any party may file written  
27 objections with the court and serve a copy on all parties. Such a document should be captioned  
28 “Objections to Magistrate Judge’s Findings and Recommendations.” Failure to file objections

1 within the specified time may waive the right to appeal the District Court's order. *Turner v.*  
2 *Duncan*, 158 F.3d 449, 455 (9th Cir. 1998); *Martinez v. Ylst*, 951 F.2d 1153 (9th Cir. 1991). In  
3 his objections petitioner may address whether a certificate of appealability should issue in the  
4 event he files an appeal of the judgment in this case. *See* Rule 11, Federal Rules Governing  
5 Section 2254 Cases (the district court must issue or deny a certificate of appealability when it  
6 enters a final order adverse to the applicant).

7 Dated: November 6, 2013.

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9 EDMUND F. BRENNAN  
10 UNITED STATES MAGISTRATE JUDGE  
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