1 2 3 4 5 6 7 8 UNITED STATES DISTRICT COURT 9 FOR THE EASTERN DISTRICT OF CALIFORNIA 10 11 DANIEL F. BORDEN, No. 2:13-cv-2272-TLN-EFB P 12 Petitioner. 13 ORDER AND FINDINGS AND v. RECOMMENDATIONS 14 COURT OF APPEALS, THIRD APPELLATE DISTRICT, et al., 15 Respondents. 16 17 Petitioner is a state prisoner without counsel seeking a writ of mandamus pursuant to 28 18 U.S.C. §§ 1361, 1651. He contends that unnamed police officers engaged in "serious" and 19 20 "outrageous" misconduct that "must be decided now by this court, as the lower courts turned a blind-eye." ECF No. 1 at 2-3. Petitioner "demands full consideration of [the] issues . . . [he] 21 22 raised at trial but [were] ignored." *Id.* at 9. He names the California Third District Court of 23 Appeals and the Sacramento County Superior Court as respondents to his petition for writ of 24 mandamus. 25 Federal district courts are not authorized to issue writs of mandamus to direct state courts, 26 state judicial officers, or other state officials in the performance of their duties. See Demos v. 27 ¹ Petitioner seeks leave to proceed in forma pauperis. See 28 U.S.C. § 1915. Examination 28 of the in forma pauperis affidavit reveals that petitioner is unable to afford the costs of suit.

1 U.S. District Court, 925 F.2d 1160, 1161 (9th Cir. 1991) ("We further note that this court lacks 2 jurisdiction to issue a writ of mandamus to a state court."); Clark v. Washington, 366 F.2d 678, 3 681 (9th Cir. 1966) ("The federal courts are without power to issue writs of mandamus to direct 4 state courts or their judicial officers in the performance of their duties[.]"); see also Newton v. 5 Poindexter, 578 F. Supp. 277, 279 (C.D. Cal. 1984) (§ 1361 has no application to state officers or 6 employees). 7 The proper remedy for a state prisoner challenging any aspect of his state custody is to file 8 a federal habeas petition pursuant to 28 U.S.C. § 2254. White v. Lambert, 370 F.3d 1002, 1009-9 10 (9th Cir. 2004). 10 Accordingly, it is ORDERED that petitioner's request for leave to proceed in forma 11 pauperis is granted, and it is hereby RECOMMENDED that the petition for a writ of mandamus 12 be dismissed for lack of jurisdiction. 13 These findings and recommendations are submitted to the United States District Judge 14 assigned to the case, pursuant to the provisions of 28 U.S.C. § 636(b)(l). Within fourteen days 15 after being served with these findings and recommendations, any party may file written 16 objections with the court and serve a copy on all parties. Such a document should be captioned 17 "Objections to Magistrate Judge's Findings and Recommendations." Any reply to the objections 18 shall be served and filed within fourteen days after service of the objections. Failure to file 19 objections within the specified time may waive the right to appeal the District Court's order. 20 Turner v. Duncan, 158 F.3d 449, 455 (9th Cir. 1998); Martinez v. Ylst, 951 F.2d 1153 (9th Cir. 21 1991). 22 DATED: April 14, 2014. 23 UNITED STATES MAGISTRATE JUDGE 24 25 26

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