

1 must summarily dismiss a petition if it “plainly appears . . . that the petitioner is not entitled to
2 relief” The court has conducted the review required under Rule 4 and concludes that
3 summary dismissal of the petition is required.

4 “[A] federal court is limited to deciding whether a conviction violated the Constitution,
5 laws, or treaties of the United States.” *Estelle v. McGuire*, 502 U.S. 62, 67-68 (1991). Habeas
6 corpus relief is unavailable for alleged errors in the interpretation or application of state
7 sentencing laws by either a state trial court or appellate court. “State courts are the ultimate
8 expositors of state law,” and a federal habeas court is bound by the state’s construction except
9 when it appears that its interpretation is an obvious subterfuge to evade the consideration of a
10 federal issue. *Mullaney v. Wilbur*, 421 U.S. 684, 691 (1975). So long as a state sentence “is not
11 based on any proscribed federal grounds such as being cruel and unusual, racially or ethnically
12 motivated, or enhanced by indigency, the penalties for violation of state statutes are matters of
13 state concern.” *Makal v. State of Arizona*, 544 F.2d 1030, 1035 (9th Cir. 1976). *See also Bueno*
14 *v. Hallahan*, 988 F.2d 86, 88 (9th Cir. 1993) (per curiam) (“[S]entence enhancement on the basis
15 of prior convictions . . . does not violate the Constitution.”).

16 In this case, petitioner’s claim lies outside this court’s jurisdiction. *See Langford v. Day*,
17 110 F.3d 1380, 1389 (9th Cir. 1996) (a habeas petitioner may not “transform a state-law issue into
18 a federal one merely by asserting a violation of due process.”). Although petitioner references
19 “due process,” the substantive issue raised is whether the state courts properly determined under
20 California law that petitioner is ineligible for resentencing under § 1170.126. Federal habeas
21 corpus relief is unavailable to correct violations of state law. *Swarthout v. Cooke*, 562 U.S. 216,
22 219 (2011). Accordingly, the petition for a writ of habeas corpus must be summarily dismissed.
23 *See Garateix v. Rackley*, No. SACV 15-0795-FMO (JEM), 2015 U.S. Dist. LEXIS 70034 (C.D.
24 Cal. May 28, 2015) (summarily dismissing petition based on state court’s denial of resentencing
25 as not cognizable in federal habeas review).

26 In accordance with the above, IT IS HEREBY ORDERED that:

27 1. Petitioner’s application for writ of habeas corpus is summarily dismissed.

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- 2. The Clerk is directed to close the case.
- 3. The court declines to issue a certificate of appealability.

DATED: June 13, 2016.


EDMUND F. BRENNAN
UNITED STATES MAGISTRATE JUDGE