

1 v. Williams, 490 U.S. 319, 325 (1989); Franklin v. Murphy, 745 F.2d 1221, 1227-28 (9th Cir.
2 1984).

3 In his petition, petitioner seeks a writ of mandamus ordering the state appellate and
4 supreme courts to (1) publish the opinions denying his state court petitions for writ of mandate,¹
5 (2) reverse their orders denying his writ of mandate, and (3) reinstate his writ of mandate and
6 permit him “to properly prosecute this ‘Criminal Case.’” ECF No. 1 at 16-17.

7 “The federal courts are without power to issue writs of mandamus to direct state courts or
8 their judicial officers in the performance of their duties.” Clark v. State of Washington, 366 F.2d
9 678, 681 (1966) (citations omitted); Demos v. U.S. Dist. Court for the E. Dist. Wash., 925 F.2d
10 1160, 1161 (9th Cir. 1991) (“[T]his court lacks jurisdiction to issue a writ of mandamus to a state
11 court.”). Petitions which seek “to obtain a writ in this court to compel a state court to take or
12 refrain from some action . . . are frivolous as a matter of law.” Demos, 925 F.2d at 1161-62.
13 Accordingly, the instant petition is frivolous and must be dismissed. Moreover, no degree of
14 amendment would grant this court jurisdiction over the state courts and no leave to amend should
15 be granted. Hartmann v. CDCR, 707 F.3d 1114, 1130 (9th Cir. 2013) (“A district court may deny
16 leave to amend when amendment would be futile.”).

17 Based on petitioner’s allegations and the attachments to the petition, it appears that the
18 claims underlying the state petitions for a writ of mandate, which he asserts were improperly
19 converted into petitions for writ of habeas corpus, may have been related to a prison disciplinary
20 ruling. ECF No. 1 at 5-6, 31-32, 34. If petitioner wants to bring claims directly related to his
21 prison disciplinary ruling in this court, he will need to file a separate petition for writ of habeas
22 corpus or a civil complaint under 42 U.S.C. § 1983. Petitioner is advised that in Nettles v.
23 Grounds, 830 F.3d 922 (9th Cir. 2016) (en banc), the Ninth Circuit recently addressed the issue of
24 whether a habeas corpus action is the appropriate vehicle to challenge a disciplinary conviction
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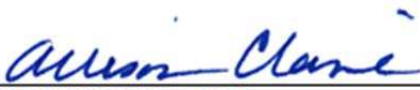
26 ¹ The petition and attachments indicate that petitioner has received copies of the orders denying
27 his state court petitions for writ of mandate, but that petitioner believes these orders to be
28 deficient. ECF No. 1 at 6-9, 20, 31-32, 34-35, 37-38. It appears petitioner is under the
impression that ordering the state courts to publish their opinions will require them to issue
lengthier opinions. Id.

1 when it will not necessarily impact the fact or duration of an inmate's confinement. The Ninth
2 Circuit held that if success on the merits of a petitioner's challenged disciplinary proceeding
3 would not *necessarily* impact the fact or duration of his confinement, his claim would not fall
4 within "the core of habeas corpus," and that, unless a state prisoner's claim lies at the core of
5 habeas corpus, it may not be brought in habeas corpus. Id. at 934-35. The court takes no position
6 as to whether a petition for writ of habeas corpus or a civil rights complaint would be appropriate
7 or successful.

8 Accordingly, IT IS HEREBY RECOMMENDED that the petition for writ of mandamus
9 be dismissed without leave to amend.

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

17 DATED: November 29, 2016

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19 ALLISON CLAIRE
20 UNITED STATES MAGISTRATE JUDGE
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