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UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF CALIFORNIA

KHUONG Q. VO,  
  
                                Petitioner,  
  
                v.  
  
R. NDOH,  
  
                                Respondent.

No. 2:16-cv-2975-EFB P

ORDER<sup>1</sup>

Petitioner is a state prisoner without counsel seeking a writ of habeas corpus pursuant to 28 U.S.C. § 2254.<sup>2</sup> He asks this court to reverse a ruling by the state court, which dismissed his civil action that he filed in that court against the California Department of Corrections and Rehabilitation. His state court action was dismissed as barred by the statute of limitations. *See* ECF No. 1 at 15, 18.

Under Rule 4 of the Rules Governing Section 2254 Cases, the court is required to conduct a preliminary review of all petitions for writ of habeas corpus filed by state prisoners. The court must summarily dismiss a petition if it “plainly appears . . . that the petitioner is not entitled to

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<sup>1</sup> This proceeding was referred to this court by Local Rule 302 pursuant to 28 U.S.C. § 636(b)(1) and is before the undersigned pursuant to petitioner’s consent. *See* 28 U.S.C. § 636; *see also* E.D. Cal. Local Rules, Appx. A, at (k)(4).

<sup>2</sup> He has paid the filing fee.

1 relief . . . .” The court has conducted the review required under Rule 4 and concludes that  
2 summary dismissal of the petition is required.

3 Fundamentally, petitioner’s claim does not sound in habeas because it does not concern  
4 the validity or duration of his confinement. *See Nettles v. Grounds*, No. 12-16935, 2016 U.S.  
5 App. LEXIS 13573 (9th Cir. July 26, 2016) (a prisoner’s claim which, if successful, would not  
6 necessarily lead to immediate or speedier release falls outside the “core of habeas corpus”).

7 In addition, this is not the appropriate court for petitioner to seek review of the state  
8 court’s dismissal of his civil case. Generally, federal courts lack jurisdiction to review or modify  
9 state court judgments. *See Rooker v. Fidelity Trust Company*, 263 U.S. 413 (1923); *District of*  
10 *Columbia Court of Appeals v. Feldman*, 460 U.S. 462, 482 (1983). “[L]ower federal courts do not  
11 have jurisdiction to review a case litigated and decided in state court; only the United States  
12 Supreme Court has jurisdiction to correct state court judgments.” *Gottfried v. Medical Planning*  
13 *Services*, 142 F.3d 326, 330 (6th Cir.), *cert. denied*, 525 U.S. 1041, 119 S.Ct. 592 (1998); *see also*  
14 *Bianchi v. Rylaarsdam*, 334 F.3d 895, 901 (9th Cir. 2003) (“Stated plainly, *Rooker—Feldman*  
15 bars any suit that seeks to disrupt or ‘undo’ a prior state-court judgment, regardless of whether the  
16 state-court proceeding afforded the federal-court plaintiff a full and fair opportunity to litigate her  
17 claims.”).

18 Because this court lacks jurisdiction to review the state court’s judgment, this action must  
19 be dismissed. *See Noel v. Hall*, 341 F.3d 1148, 1156 (9th Cir. 2003) (“If a federal plaintiff asserts  
20 as a legal wrong an allegedly erroneous decision by a state court, and seeks relief from a state  
21 court judgment based on that decision, *Rooker-Feldman* bars subject matter jurisdiction in federal  
22 district court.”).

23 Accordingly, IT IS HEREBY ORDERED that petitioner’s application for a writ of habeas  
24 corpus is summarily dismissed and the court declines to issue a certificate of appealability.

25 DATED: April 27, 2017.

26   
27 EDMUND F. BRENNAN  
28 UNITED STATES MAGISTRATE JUDGE