

1 A prisoner's claim which, if successful, would not necessarily lead to immediate or
2 speedier release falls outside the "core of habeas corpus" and must be pursued in an action
3 brought pursuant to 42 U.S.C. § 1983. *Nettles v. Grounds*, 830 F.3d 922 (9th Cir. 2016). In the
4 context of disciplinary proceedings, the U.S. Court of Appeals for the Ninth Circuit has
5 concluded that the mere fact that a disciplinary decision may be considered as a factor in denying
6 parole is insufficient to confer habeas jurisdiction on the court. *Id.* at 934-35. In this case,
7 expungement of petitioner's disciplinary infraction will not guarantee his earlier release from
8 prison, as he is serving a sentence of fifteen years to life. ECF No. 1 at 1. His claims, therefore,
9 do not fall within the "core of habeas corpus."

10 Accordingly, IT IS HEREBY RECOMMENDED that petitioner's application for writ of
11 habeas corpus be summarily dismissed without prejudice to filing a new action pursuant to 42
12 U.S.C. § 1983.

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)(1). 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). In his objections petitioner may address whether a certificate of appealability should issue
22 in the event he files an appeal of the judgment in this case. *See* Rule 11, Rules Governing Section
23 2254 Cases in the United States District Courts (the district court must issue or deny a certificate
24 of appealability when it enters a final order adverse to the applicant).

25 DATED: October 11, 2018.

26 
27 EDMUND F. BRENNAN
28 UNITED STATES MAGISTRATE JUDGE