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8	IN THE UNITED STATES DISTRICT COURT	
9	FOR THE EASTERN DISTRICT OF CALIFORNIA	
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11	ADAM SANFORD,	No. 2:19-CV-1995-WBS-DMC-P
12	Petitioner,	
13	v.	FINDINGS AND RECOMMENDATIONS
14	CRAIG KOENIG,	
15	Respondent.	
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17	Petitioner, a state prisoner proceeding pro se, brings this petition for a writ of	
18	habeas corpus pursuant to 28 U.S.C. § 2254. Pending before the Court is Petitioner's petition,	
19	ECF No. 1, and Respondent's answer, ECF No. 12. Respondent has lodged the state court	
20	records, ECF No. 11. Petitioner has declined to file a traverse.	
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22	I. PETITIONER'S CLAIM	
23	In his petition, Petitioner sets forth the following statement of facts:	
24	On March 23, 2016, Petitioner was convicted of violation sections 211	
25	(2nd), 245(b), 1664/211 (2nd), 12022.53(b), 12022.5(a), and 12022(b)(1) of the California Penal Code. These violations are considered violent	
26	felonies under California Penal Code 667.5(c)(8), (9), and (22) and make Petitioner ineligible for time credits available to inmates who are	
27	considered non-violent offenders. Federal law has established what truly constitutes a crime of violence	
28	ECF No. 1, pg. 7.	
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Petitioner contends that "the same standard used in the Federal Courts in determining whether a crime can be considered a violent felony should be applied for his sentence in California." Id. at 11. Petitioner states that he should "receive all sentencing time credits available to non-violent offenders" because "no physical or violent force was used and since no harm or injury occurred during the commission of any of the charged offenses. . . . " Id. II. STATE COURT DETETERMINATION Petitioner's claim was denied by the El Dorado County Superior Court. See ECF No. 11-20. The court stated: Petitioner, a state prisoner, alleges that recent federal court decisions entitle him to habeas relief. The most recent case cited by petitioner, United States v. Garcia-Lopez (9th Cir. 2018) 903 F.3d 887, concerns the application of California's robbery statute with regard to the federal sentencing guidelines for a conviction in federal court. Federal sentencing law is not relevant to the sentencing of a defendant convicted in the California state court. The petition is denied. ECF No. 11-20, pg. 1. The California Court of Appeal and California Supreme Court summarily denied relief. See ECF Nos. 11-24 and 11-26. III. DISCUSSION

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Resolution of this matter is straightforward because the Court lacks jurisdiction. Here, petitioner challenges how his conviction is being characterized under state law. According to Petitioner, he should not be considered a violent offender because, <u>under federal sentencing law</u>, he was not convicted of a violent offense. Despite Petitioner's reference to federal sentencing law, Petitioner's claim is at its heart a claim of error in the application of state law because, as the state court observed, federal sentencing law is not relevant.

A writ of habeas corpus is available under 28 U.S.C. § 2254 only on the basis of a transgression of federal law binding on the state courts. <u>See Middleton v. Cupp</u>, 768 F.2d 1083, 1085 (9th Cir. 1985); <u>Gutierrez v. Griggs</u>, 695 F.2d 1195, 1197 (9th Cir. 1983). It is not available for alleged error in the interpretation or application of state law. <u>Middleton</u>, 768 F.2d at 1085; <u>see</u>

1 also Lincoln v. Sunn, 807 F.2d 805, 814 (9th Cir. 1987); Givens v. Housewright, 786 F.2d 1378, 2 1381 (9th Cir. 1986). Habeas corpus cannot be utilized to try state issues de novo. See Milton v. 3 Wainwright, 407 U.S. 371, 377 (1972). However, a "claim of error based upon a right not specifically guaranteed by the 4 5 Constitution may nonetheless form a ground for federal habeas corpus relief where its impact so 6 infects the entire trial that the resulting conviction violates the defendant's right to due process." 7 Hines v. Enomoto, 658 F.2d 667, 673 (9th Cir. 1981) (citing Quigg v. Crist, 616 F.2d 1107 (9th 8 Cir. 1980)); see also Lisenba v. California, 314 U.S. 219, 236 (1941). In order to raise such a 9 claim in a federal habeas corpus petition, the "error alleged must have resulted in a complete 10 miscarriage of justice." Hill v. United States, 368 U.S. 424, 428 (1962); Crisafi v. Oliver, 396 11 F.2d 293, 294-95 (9th Cir. 1968); Chavez v. Dickson, 280 F.2d 727, 736 (9th Cir. 1960). Petitioner's claim does not relate to his trial. Rather, it relates to the way his 12 13 conviction has been characterized by the state for purposes of incarceration. Thus, it is not 14 possible for Petitioner's claim to suggest any fundamental unfairness with respect to Petitioner's 15 conviction. Nor does Petitioner's claim implicate a complete miscarriage of justice. Petitioner's 16 state law claim is not cognizable and should be dismissed for lack of jurisdiction. 17 /// 18 /// 19 /// 20 /// 21 /// 22 /// 23 /// 24 /// /// 25 26 /// 27 ///

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## IV. CONCLUSION

Based on the foregoing, the undersigned recommends that Petitioner's petition for a writ of habeas corpus, ECF No. 1, be denied.

These findings and recommendations are submitted to the United States District Judge assigned to the case, pursuant to the provisions of 28 U.S.C. § 636(b)(l). Within 14 days after being served with these findings and recommendations, any party may file written objections with the Court. Responses to objections shall be filed within 14 days after service of objections. Failure to file objections within the specified time may waive the right to appeal. See Martinez v. Ylst, 951 F.2d 1153 (9th Cir. 1991).

DENNIS M. COTA

UNITED STATES MAGISTRATE JUDGE

Dated: December 14, 2021