





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).

4           However, a “claim of error based upon a right not specifically guaranteed by the  
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).

12           Petitioner’s claim does not relate to his trial. Rather, it relates to the way his  
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.

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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)(1). 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).

Dated: December 14, 2021



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DENNIS M. COTA  
UNITED STATES MAGISTRATE JUDGE