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7 UNITED STATES DISTRICT COURT  
8 FOR THE EASTERN DISTRICT OF CALIFORNIA  
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10 ASKIA SANKOFA ASHANTI,

11 Petitioner,

12 v.

13 BOARD OF PAROLE HEARING,

14 Respondent.  
15

No. 2:21-cv-1663-EFB P

ORDER AND FINDINGS AND  
RECOMMENDATIONS

16 Petitioner is a state prisoner who, proceeding pro se, seeks a writ of habeas corpus.<sup>1</sup> ECF  
17 No. 1. He has filed an application to proceed in forma pauperis (ECF No. 2) which makes the  
18 required showing and is granted. However, his petition (ECF No. 1), for the reasons stated  
19 below, must be dismissed.

20 I. Legal Standards

21 The court must dismiss a habeas petition or portion thereof if the prisoner raises claims  
22 that are legally “frivolous or malicious” or fail to state a basis on which habeas relief may be  
23 granted. 28 U.S.C. § 1915A(b)(1),(2). The court must dismiss a habeas petition “[i]f it plainly  
24 appears from the petition and any attached exhibits that the petitioner is not entitled to relief[.]”  
25 Rule 4, Rules Governing Section 2254 Cases.

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27 <sup>1</sup> Petitioner subsequently filed “excerpts of record” and an “appendix” to his petition.  
28 ECF Nos. 3 & 4. Although the supplemental filings are not complete without necessitating  
reference to the original petition, in violation of Local Rule 220, the court has considered their  
contents in an abundance of caution.

1           II.     Discussion

2           Petitioner claims to seek relief under 28 U.S.C. § 2241 and not § 2254. *See* ECF No. 1 at  
3 7. Section 2254, however, ““is the exclusive vehicle for a habeas petition by a state prisoner in  
4 custody pursuant to a state court judgment, *even when the petitioner is not challenging his*  
5 *underlying state court conviction*. . . . By contrast, the general grant of habeas authority in § 2241  
6 is available for challenges by a state prisoner who is *not* in custody pursuant to a state court  
7 judgment — for example, a defendant in pre-trial detention or awaiting extradition.” *Dominguez*  
8 *v. Kernan*, 906 F.3d 1127, 1135 (9th Cir. 2018) (emphasis added). Because petitioner is in  
9 custody pursuant to a state court judgment, § 2254 is the proper jurisdictional basis for  
10 consideration of his petition. *See White v. Lambert*, 370 F.3d 1002, 1004 (9th Cir. 2004).

11           Notwithstanding its length, the petition boils down to a single issue: whether the Board of  
12 Parole Hearings (“BPH”) improperly determined that petitioner’s law degree was fabricated and  
13 not authentic. ECF No. 1 at 2. Petitioner requests that the BPH’s report on this matter be  
14 removed from his central file. *Id.* at 7. For the reasons stated in *Nettles v. Grounds*, 830 F.3d 922  
15 (9th Cir. 2016), these allegations do not sound in habeas. In *Nettles*, the court held that a  
16 prisoner’s claim which, if successful, would not necessarily lead to immediate or speedier release  
17 falls outside the “core of habeas corpus.” Here, petitioner is serving an indeterminate life  
18 sentence. ECF No. 1 at 1. Expungement of the BPH report from petitioner’s central file – even if  
19 it would increase the likelihood of him being granted parole – would not guarantee petitioner’s  
20 earlier release from prison. Petitioner’s claim, therefore, does not fall within the “core of habeas  
21 corpus.” As there is no basis for finding habeas jurisdiction over petitioner’s claim, the petition  
22 must be dismissed.<sup>2</sup>

23           III.    Conclusion

24           Accordingly, it is ORDERED that:

- 25           1. Petitioner’s application to proceed in forma pauperis (ECF No. 2) is GRANTED; and  
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27           <sup>2</sup> Even if jurisdiction existed, the claim would fail. No independent federal constitutional  
28 right to accurate prison records has been recognized in this Circuit. *See Hernandez v. Johnston*,  
833 F.2d 1316, 1319 (9th Cir. 1987).

1           2. The Clerk of Court shall randomly assign a United States District Judge to this case.  
2           Further, it is RECOMMENDED that the petition (ECF No. 1) be DISMISSED for lack of  
3 jurisdiction.

4           These findings and recommendations are submitted to the United States District Judge  
5 assigned to the case, pursuant to the provisions of 28 U.S.C. § 636(b)(1). Within fourteen days  
6 after being served with these findings and recommendations, any party may file written  
7 objections with the court and serve a copy on all parties. Such a document should be captioned  
8 “Objections to Magistrate Judge’s Findings and Recommendations.” Failure to file objections  
9 within the specified time may waive the right to appeal the District Court’s order. *Turner v.*  
10 *Duncan*, 158 F.3d 449, 455 (9th Cir. 1998); *Martinez v. Ylst*, 951 F.2d 1153 (9th Cir. 1991). In  
11 his objections petitioner may address whether a certificate of appealability should issue in the  
12 event he files an appeal of the judgment in this case. *See* Rule 11, Rules Governing § 2254 Cases  
13 (the district court must issue or deny a certificate of appealability when it enters a final order  
14 adverse to the applicant).

15 DATED: November 22, 2021.

  
EDMUND F. BRENNAN  
UNITED STATES MAGISTRATE JUDGE