

1 grand theft conviction, he will begin to serve his sentence for possession of a sharp instrument
2 while in prison. Id.

3 Petitioner challenges the amount of good conduct sentence credit he has received.
4 Essentially, he asserts that he has been identified by California Department of Corrections staff as
5 a “second striker” and this has somehow resulted in his accruing sentence credit at a rate lower
6 than he should. However, the claim is conclusory as petitioner fails to point to facts and/or law
7 indicating that he is earning credit at a rate lower than he should be under California law as to
8 either one of his sentences. Further, a writ of habeas corpus can only be granted for a violation of
9 federal law. 28 U.S.C. § 2254. Petitioner’s challenge to an interpretation of California sentence
10 credit rules arises under California law, and not federal law.

11 For these reasons, the court will recommend that petitioner’s petition for a writ of habeas
12 corpus be denied, and this case be closed.

13 Finally, the court notes that petitioner has requested a certificate of appealability. Because
14 there are no appeals pending at this point that request will be denied.

15 In accordance with the above, IT IS HEREBY ORDERED that:

16 1. The Clerk of the Court administratively terminate petitioner’s motion for an expedited
17 ruling (ECF No. 34).

18 2. Petitioner’s request for a certificate of appealability (ECF No. 41) is denied.

19 IT IS HEREBY RECOMMENDED that:

20 1. Petitioner’s petition for a writ of habeas corpus be denied; and

21 2. This case be closed.

22 These findings and recommendations are submitted to the United States District Judge
23 assigned to the case, pursuant to the provisions of 28 U.S.C. § 636(b)(1). Within fourteen days
24 after being served with these findings and recommendations, any party may file written
25 objections with the court and serve a copy on all parties. Such a document should be captioned
26 “Objections to Magistrate Judge’s Findings and Recommendations.” In his objections petitioner
27 may address whether a certificate of appealability should issue in the event he files an appeal of
28 the judgment in this case. See Rule 11, Federal Rules Governing Section 2254 Cases (the district

1 court must issue or deny a certificate of appealability when it enters a final order adverse to the
2 applicant). Any response to the objections shall be served and filed within fourteen days after
3 service of the objections. The parties are advised that failure to file objections within the
4 specified time may waive the right to appeal the District Court's order. Martinez v. Ylst, 951
5 F.2d 1153 (9th Cir. 1991).

6 Dated: December 19, 2023



CAROLYN K. DELANEY
UNITED STATES MAGISTRATE JUDGE

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