

1 abstract of judgment and for re-sentencing. ECF No. 13 at 2-3. The trial court denied this motion
2 on June 2, 2023. Id.

3 On August 14, 2023, this court dismissed petitioner’s original § 2254 application because
4 it failed to comply with Rule 2 of the Rules Governing Section 2254 Cases. Petitioner was
5 granted leave to file an amended § 2254 petition that contained all of his claims for relief in a
6 single pleading.

7 In the amended § 2254 application, petitioner raises four claims for relief. First, petitioner
8 contends that the trial court erred when it improperly imposed three illegal sentencing
9 enhancements totaling eleven years. Next, petitioner asserts that the trial judge illegally
10 sentenced petitioner based on its finding that petitioner had sustained two prior convictions.
11 Third, petitioner alleges that the abstract of judgment does not reflect his correct sentence.
12 Lastly, petitioner argues that his sentence is illegal because he did not serve separate prison terms
13 for his prior convictions. Petitioner relies on various provisions of California sentencing law in
14 support of his claims for relief.

15 **II. Analysis**

16 Under Rule 4 of the Rules Governing Section 2254 Cases, the court must review all
17 petitions for writ of habeas corpus and summarily dismiss any petition if it is plain that the
18 petitioner is not entitled to relief. The court has conducted that review and determined that
19 petitioner’s first amended habeas application raises only challenges to state sentencing laws that
20 are not cognizable in this federal habeas corpus action. See Estelle v. McGuire, 502 U.S. 62, 67
21 (1991) (emphasizing that “[w]e have stated many times that ‘federal habeas corpus relief does not
22 lie for errors of state law’”) (quoting Lewis v. Jeffers, 497 U.S. 764, 780 (1990)).

23 A petitioner may seek federal habeas relief from a state-court conviction or sentence “only
24 on the ground that he is in custody in violation of the Constitution or laws or treaties of the United
25 States.” 28 U.S.C. § 2254(a). Here, petitioner is challenging the trial court’s application of
26 various provisions of California state sentencing law. See Swarthout v. Cooke, 562 U.S. 216, 222
27 (2011) (emphasizing that it is not the federal courts role to determine whether California applied
28 its state laws and regulations correctly). Petitioner’s claims are solely concerned with the

1 application of state sentencing laws and are therefore not cognizable in this federal habeas action.
2 Bradshaw v. Richey, 546 U.S. 74, 76 (2005); Miller v. Vasquez, 868 F.2d 1116, 1118–19 (9th
3 Cir. 1989) (declining to address whether assault with a deadly weapon qualifies as a “serious
4 felony” under California's sentence enhancement provisions because it is a question of state
5 sentencing law, for which habeas relief is unavailable). For these reasons, the court will
6 recommend that petitioner’s first amended petition for writ of habeas corpus be summarily
7 dismissed.

8 **III. Plain Language Summary for Pro Se Party**

9 The following information is meant to explain this order in plain English and is not
10 intended as legal advice.

11 Because your claims are based exclusively on the application of state sentencing laws,
12 they are not reviewable by this court in this federal habeas corpus action. It is thus recommended
13 that your amended habeas petition be dismissed.

14 If you disagree with this recommendation, you have 14 days to explain why it is not the
15 correct result. Label your explanation as “Objections to Magistrate Judge’s Findings and
16 Recommendations.” The district judge assigned to your case will review the matter and issue the
17 final decision.

18 Accordingly, IT IS HEREBY ORDERED that petitioner’s request for the status of his
19 case (ECF No. 14) is denied as moot in light of these Findings and Recommendations.

20 IT IS FURTHER RECOMMENDED that petitioner's first amended application for a writ
21 of habeas corpus (ECF No. 13) be summarily dismissed with prejudice.

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.” If petitioner files objections,
27 he may also address whether a certificate of appealability should issue and, if so, why and as to
28 which issues. A certificate of appealability may issue under 28 U.S.C. § 2253 “only if the

1 applicant has made a substantial showing of the denial of a constitutional right.” 28 U.S.C. §
2 2253(c)(2). Any response to the objections shall be filed and served 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: November 20, 2023



CAROLYN K. DELANEY
UNITED STATES MAGISTRATE JUDGE

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