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IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF CALIFORNIA

KEITH THOMAS,	)	No. C 07-0170 TEH (PR)
	)	
Plaintiff,	)	
	)	<b>ORDER DISMISSING COMPLAINT</b>
v.	)	
	)	
JOHN DOE, CLERK, MARIN	)	
COUNTY SUPERIOR COURT,	)	
	)	
Defendant.	)	

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Plaintiff, a prisoner of the State of California currently incarcerated at California State Prison-Sacramento, has filed a civil rights complaint under 42 U.S.C. § 1983, seeking mandamus relief against the Marin County Superior Court.

**BACKGROUND**

Petitioner’s complaint is somewhat incomprehensible. However, it appears that he seeks mandamus relief against the Superior Court based on their failure to respond to a civil complaint he has filed seeking documents from a matter before the Grand Jury in Marin County.

**ANALYSIS**

I Standard of Review

Federal courts must engage in a preliminary screening of cases in which prisoners seek redress from a governmental entity or officer or employee of a governmental entity. 28 U.S.C. § 1915A(a). The Court must identify cognizable claims or dismiss the complaint, or any portion of the complaint, if the complaint "is frivolous, malicious, or

1 fails to state a claim upon which relief may be granted," or "seeks monetary relief from a  
2 defendant who is immune from such relief." Id. § 1915A(b). Pro se pleadings must be  
3 liberally construed, however. Balistreri v. Pacifica Police Dep't, 901 F.2d 696, 699 (9th  
4 Cir. 1990).

## 5 II Legal Claims

6 Plaintiff seeks mandamus relief based on the failure of the Marin County Superior  
7 Court to respond to a civil complaint he filed seeking certain court documents. However,  
8 federal district courts are without power to issue mandamus to direct state courts, state  
9 judicial officers, or other state officials in the performance of their duties. A petition for  
10 a writ of mandamus to compel a state court or official to take or refrain from some action  
11 is frivolous as a matter of law. See Demos v. U.S. District Court, 925 F.2d 1160, 1161-  
12 62 (9th Cir. 1991) (imposing no filing in forma pauperis order); Clark v. Washington,  
13 366 F.2d 678, 681 (9th Cir. 1966) (attorney contested disbarment and sought  
14 reinstatement); Dunlap v. Corbin, 532 F. Supp. 183, 187 (D. Ariz. 1981) (plaintiff sought  
15 order from federal court directing state court to provide speedy trial), aff'd without  
16 opinion, 673 F.2d 1337 (9th Cir. 1982); Newton v. Poindexter, 578 F. Supp. 277, 279  
17 (C.D. Cal. 1984) (§ 1361 has no application to state officers or employees); see also, In  
18 re Campbell, 264 F.3d 730, 731-32 (7th Cir. 2001) (denying petition for writ of  
19 mandamus that would order state trial court to give petitioner access to certain trial  
20 transcripts which he sought in preparation for filing state post-conviction petition; federal  
21 court may not, as a general rule, issue mandamus to a state judicial officer to control or  
22 interfere with state court litigation). Plaintiff's mandamus remedy, if any, lies in state  
23 court.

## 24 CONCLUSION

25 For the foregoing reasons, Plaintiff's action is DISMISSED for failure to state a  
26 claim upon which relief may be granted. 28 U.S.C. § 1915A.

27 The Clerk of Court shall enter judgment and close the file.

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IT IS SO ORDERED.

DATED: 01/19/07



THELTON E. HENDERSON  
United States District Judge