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United States District Court  
For the Northern District of California

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

ROXANNE ARI,

No. C 09-5066 WHA (PR)

Petitioner,

**ORDER OF DISMISSAL;  
GRANTING IN FORMA PAUPERIS  
APPLICATION**

v.

SUPERIOR COURT,

Respondent.

(Docket Nos. 2 & 4)

\_\_\_\_\_ /  
  
Petitioner, a state prisoner, has filed a pro se petition for writ of mandamus in which he seeks an order directing the Clerk of the Alameda County Superior Court to transfer his case to another court. Writs of mandamus have been abolished in the United States District Courts. Fed. R.Civ.P. 81(b); *Finley v. Chandler*, 377 F.2d 548 (9th Cir. 1967). District courts may, however, grant writs in the nature of mandamus under 28 U.S.C. 1651 (the All Writs Act) when necessary or appropriate in aid of their jurisdiction. 28 U.S.C. § 1651; *Finley*, 377 F.2d at 548. The "in aid of their jurisdiction" language does not allow a district court to assume jurisdiction of a bare mandamus petition, when no other basis for federal jurisdiction appears. *Petrowski v. Nutt*, 161 F.2d 938, 939 (9th Cir. 1947). The district court may not issue original writs, even when violations of constitutional rights are alleged. *Ibid*. As the court stated in *Petrowski*, "the writ, when issued, would necessarily be auxiliary or ancillary in character and fashioned to preserve the jurisdiction given by other and original processes." 161 F.2d at 939.


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It is thus clear petitioner is not entitled to the writ of mandamus that he seeks. This matter is **DISMISSED**.

Leave to proceed in forma pauperis (docket numbers 2 and 4) is **GRANTED**.

**IT IS SO ORDERED.**

Dated: November 30, 2009.

  
\_\_\_\_\_  
WILLIAM ALSUP  
UNITED STATES DISTRICT JUDGE