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

JEREMY C. BRANDON, T-79759,	)	
	)	
Petitioner,	)	No. C 12-5398 CRB (PR)
	)	
vs.	)	ORDER OF DISMISSAL
	)	
BOARD OF PRISON TERMS, et al.,	)	(Docket #4)
	)	
Respondent(s).	)	
_____	)	

Petitioner, a prisoner at Pleasant Valley State Prison (PVSP) in Coalinga, California, has filed a pro se petition for a writ of mandate compelling the California Board of Prison Terms to "make a determination whether [petitioner's] sentence was obtained without foundation or drop the alleged parole violation" charge against him. Docket #1 at 7. Petitioner also has filed a motion to proceed in forma pauperis under 28 U.S.C. § 1915 (docket #4) which, based solely on his affidavit of poverty, is granted.

The petition for a writ of mandate is DISMISSED because it is well established that federal district courts are without power to issue mandamus to direct state courts, state judicial officers, or other state officials in the performance of their duties. A petition for a writ of mandamus to compel a state court or official to take or refrain from some action is frivolous as a matter of law. See Demos v. U.S. District Court, 925 F.2d 1160, 1161-62 (9th Cir. 1991); Clark v. Washington, 366 F.2d 678, 681 (9th Cir. 1966).

1 To the extent petitioner seeks to challenge the fact or duration of his  
2 confinement, his sole remedy in federal court is a petition for a writ of habeas  
3 corpus under 28 U.S.C. § 2244 after exhausting state judicial remedies. See  
4 Calderon v. Ashmus, 523 U.S. 740, 747 (1998).

5 The clerk shall terminate all pending motions as moot, enter judgment in  
6 accordance with this order and close the file.

7 SO ORDERED.

8 DATED: November 5, 2012

  
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10 CHARLES R. BREYER  
11 United States District Judge  
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