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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
OAKLAND DIVISION

MATTHEW MARK KOZLOWSKI,

Petitioner,

No. C 10-1442 PJH (PR)

v.

ORDER OF DISMISSAL

STATE OF CALIFORNIA, Warden,

Respondent.

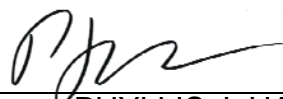
This is a habeas case filed pro se by a state prisoner. Petitioner contends that the restitution obligation imposed upon him at the time of his 1991 sentencing violated his constitutional rights.

An application for a writ of habeas corpus filed by a state prisoner can be entertained by a federal court only "on the ground that [the petitioner] is in custody in violation of the Constitution or laws or treaties of the United States." 28 U.S.C. § 2254(a). The Ninth Circuit, whose decisions are binding on this court, has recently held that a petitioner who challenges only imposition of a restitution obligation is not challenging his custody, so there is no subject matter jurisdiction over a habeas petition making only a restitution claim. *Bailey v. Hill*, 2010 WL 1133435 at *4-7 (9th Cir. Mar. 25, 2010).

Because petitioner challenges only his restitution obligation, the case is **DISMISSED** for lack of subject matter jurisdiction. Petitioner may disregard the clerk's notice regarding his in forma pauperis status. The clerk shall close the file.

IT IS SO ORDERED.

Dated: April 26, 2010.



PHYLLIS J. HAMILTON
United States District Judge