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28IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIAGREGORY MITCHELL,
Petitioner,

No. C 10-02082 SBA (PR)

ORDER OF DISMISSAL

v.

B. CURRY,
Respondent.

This action was opened when Petitioner, who is proceeding pro se, filed a completed habeas corpus form; therefore, it was opened as a habeas action. He also seeks leave to proceed in forma pauperis.

Petitioner claims that on November 4, 2008, he filed a temporary restraining order (TRO) in the Monterey County Superior Court relating to prison officials denying him access to the courts. He alleges that the state superior court is "in contempt of its rules of court by not responding to its own rules to answer the TRO." (Pet. at 6.) It seems that Petitioner is asking this Court to compel, or issue mandamus to, the state superior court to take action. 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. Demos v. U.S. District Court, 925 F.2d 1160, 1161-62 (9th Cir. 1991); see Clark v. Washington, 366 F.2d 678, 681 (9th Cir. 1966) (attorney contested disbarment and sought reinstatement); Dunlap v. Corbin, 532 F. Supp. 183, 187

1 UNITED STATES DISTRICT COURT
2 FOR THE
3 NORTHERN DISTRICT OF CALIFORNIA

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5
6 GREGORY MITCHELL,
7 Plaintiff,

Case Number: CV10-02082 SBA
CERTIFICATE OF SERVICE

8 v.

9 BENNY CURRY et al,
10 Defendant.

11
12 I, the undersigned, hereby certify that I am an employee in the Office of the Clerk, U.S. District
Court, Northern District of California.

13 That on August 26, 2010, I SERVED a true and correct copy(ies) of the attached, by placing said
14 copy(ies) in a postage paid envelope addressed to the person(s) hereinafter listed, by depositing said
15 envelope in the U.S. Mail, or by placing said copy(ies) into an inter-office delivery receptacle
located in the Clerk's office.

16
17 Gregory Mitchell D-44205
18 Correctional Training Facility
19 P.O. Box 689
Soledad, CA 93960

20 Dated: August 26, 2010

21 Richard W. Wieking, Clerk
By: LISA R CLARK, Deputy Clerk