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6 **UNITED STATES DISTRICT COURT**
7 **DISTRICT OF NEVADA**

8 KIM BLANDINO,

9 *Petitioner,*

10 vs.

11 JUDGE ROB BARE, *et al.*,

12 *Respondents.*
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2:17-cv-02379-APG-GWF

ORDER

15 Petitioner Blandino has filed a petition for writ of habeas corpus under 28 U.S.C. § 2254. ECF
16 No. 1. With his petition, Blandino is challenging an order issued by a judge in the state district court
17 for Clark County, Nevada, finding Blandino guilty of contempt of court and barring him from being
18 within 25 feet of the judge's courtroom. Having reviewed the petition in accordance with Rule 4 of the
19 Rules Governing Habeas Corpus Cases Under Section 2254, this court concludes that it must dismiss
20 this proceeding for lack of jurisdiction.

21 In order to obtain habeas relief under Section 2254, the petitioner must demonstrate that he is
22 "in custody." 28 U.S.C. 2254(a). The "in custody" requirement is met when a petitioner "is subject
23 to a significant restraint upon his liberty 'not shared by the public generally.'" *Wilson v. Belleque*, 554
24 F.3d 816, 822 (9th Cir.2009) (quoting *Jones v. Cunningham*, 371 U.S. 236, 240 (1963)). The state
25 court's order that Blandino not come within 25 feet of a particular state courtroom does not meet the
26 requirement. See *Hensley v. Municipal Court*, 411 U.S. 345, 351 (1973) ("The custody requirement
27 of the habeas corpus statute is designed to preserve the writ of habeas corpus as a remedy for severe
28 restraints on individual liberty."). And, while the order provides that Blandino could be incarcerated

1 for failing to abide by the restriction, that does not change the result. *See Dremann v. Francis*, 828 F.2d
2 6, 7 (9th Cir.1987) (holding that potential confinement for failure to pay a fine is considered too
3 speculative to warrant federal habeas corpus protection). Because Blandino is not “in custody” as
4 contemplated by 28 U.S.C. § 2254, this court lacks jurisdiction to grant him habeas relief.

5 **IT IS THEREFORE ORDERED** that this action is DISMISSED for lack of subject matter
6 jurisdiction. The Clerk shall enter judgment accordingly and close this case.

7 **IT IS FURTHER ORDERED** that a certificate of appealability is DENIED.

8 **IT IS FURTHER ORDERED** that petitioner’s motion for an order requiring the Nevada
9 Commission on Judicial Discipline to disclose information (ECF No. 3) is DENIED as moot.

10 DATED: October 12, 2017.

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14 UNITED STATES DISTRICT JUDGE
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