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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

<p>LUCAS NOEL DEFRANTZE,</p> <p>Petitioner - Appellant,</p> <p>v.</p> <p>JOHN MCGINNESS,</p> <p>Respondent - Appellee.</p>
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No. 09-15407

D.C. No. 2:08-cv-01984-JAM

MEMORANDUM*

Appeal from the United States District Court
for the Eastern District of California
John A. Mendez, District Judge, Presiding

Submitted September 13, 2010**

Before: SILVERMAN, CALLAHAN, and N.R. SMITH, Circuit Judges.

California state prisoner Lucas Noel DeFrantze appeals pro se from the district court’s judgment dismissing his 28 U.S.C. § 2254 habeas petition for failure to state a cognizable federal claim. We have jurisdiction under 28 U.S.C. § 2253, and we affirm.

* This disposition is not appropriate for publication and is not precedent except as provided by 9th Cir. R. 36-3.

** The panel unanimously concludes this case is suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

In his habeas petition, DeFrantze alleges that the state court's dismissal of his appeal challenging a civil preliminary injunction based on his failure to comply with a state court procedural rule violated his due process rights. This claim is not cognizable on federal habeas review because DeFrantze is not challenging his conviction or sentence and he relies on a purported error of state law. *See* 28 U.S.C. § 2254(a); *Estelle v. McGuire*, 502 U.S. 62, 67-68 (1991). Therefore, the district court properly dismissed DeFrantze's habeas petition for failure to state a federally cognizable claim.

We deny DeFrantze's requests for leave to enlarge the court record and for appointment of counsel.

AFFIRMED.