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UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA,	)	Case No.	CV 12-09122 DDP ✓
	)		[CR 03-00934 DDP]
Plaintiff,	)		
	)	<b>ORDER DENYING WRIT OF HABEAS</b>	
v.	)	<b>CORPUS</b>	
	)		
DYLAN LITTLEFIELD,	)	[Petition filed on October 24,	
	)	2012]	
Defendant.	)		
	)		

Before the court is Petitioner Dylan Littlefield's Petition for Writ of Habeas Corpus. The government opposes the Petition. Having considered the parties' submissions, the court now adopts the following order.

**I. Background**

On October 16, 2003, Petitioner pled guilty before this court to a single-count information charging him with possession of stolen mail, in violation of 18 U.S.C. § 1708. (Opposition, Memorandum, at 2.) After being initially sentenced on June 2, 2004, the court entered an amended judgment on May 18, 2005, sentencing Petitioner to a prison term of thirty-three months, followed by three years of supervised release. (Id.) Petitioner was released on

1 January 10, 2006. The terms of Petitioner's supervised release  
2 provided that Petitioner "shall not commit another Federal, State  
3 or local crime." (Id.)

4 Subsequently, on September 26, 2007, Petitioner pled guilty to  
5 charges of robbery and attempted robbery in the Superior Court of  
6 California, County of Los Angeles. People v. Littlefield, No.  
7 SA062820, Superior Court of Los Angeles, County of Los Angeles,  
8 (Sept. 26, 2007). Petitioner was sentenced to nine years  
9 imprisonment and is currently confined in a correctional facility  
10 in Kern County in the Eastern District of California.<sup>1</sup>

11 On July 17, 2008, the U.S Marshals filed a detainer against  
12 Petitioner, indicating that Petitioner was wanted for violating the  
13 terms of his supervised release under 18 U.S.C. § 3583 as a result  
14 of his robbery and attempted robbery. (Petition at 1, 2.) According  
15 to Petitioner, at the time the petition was submitted in October  
16 2012, there were approximately twenty-seven months remaining on his  
17 state sentence. (Petition at 2.)

18 On October 24, 2012, Petitioner filed the instant Petition  
19 requesting that this court order Petitioner transferred to federal  
20 custody to answer the pending charge of violation of the supervised  
21 release. (DKT No. 1.) Petitioner also makes additional claims about  
22 the conditions of his confinement in state custody, alleging that  
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24 <sup>1</sup> Respondent, alleges Petitioner is currently serving a state  
25 sentence at Kern Valley state prison, located in Delano,  
26 California, in the Eastern District of California. (Return,  
27 Memorandum 2: 17-19). Petitioner alleges Respondent is incorrect,  
28 and that Petitioner is in fact currently detained at the California  
Correctional Institution, located near Tehachapi, California.  
(Opp, Memorandum, at 1). Of relevance to this order, both  
institutions are located in Kern County, which is within the  
Eastern District of California.

1 he has been harassed and retaliated against for exercising his  
2 First Amendment right to practice his religion; that he was falsely  
3 found guilty of possessing contraband materials; and that the  
4 substance abuse prevention programs at his facility are inadequate.  
5 (Petition, Memorandum, at 1-3.) Petitioner subsequently filed a  
6 supplemental brief, with leave of the court, asserting that the  
7 federal detainer is hampering his ability to participate in  
8 rehabilitative programming. (Supplemental Brief at 2-4.)

9  
10 **II. Discussion**

11 Petitioner requests that he be transferred to federal custody  
12 to conclude his parole violation proceedings. (Petition,  
13 Memorandum, at 4.) Petitioner appears to seek this relief  
14 principally so that he might serve his state sentence for the  
15 robbery and attempted robbery concurrently with his federal  
16 sentence for the supervised release violation. (Id. at 2.)

17 As an initial matter, the U.S. Supreme Court has expressly  
18 held that the federal government is not constitutionally required  
19 to writ a defendant out of state custody and into federal custody  
20 for purposes of executing a violation warrant. Moody v. Daggett,  
21 429 U.S. 78, 97 (1976). The court explained in Moody that a parolee  
22 is "not constitutionally entitled to a revocation hearing  
23 immediately upon the issuance of such a warrant," in part because a  
24 parolee does not suffer a loss of liberty as a parole violator  
25 until he is taken into custody under the violation warrant. Id.

26 Nor, under Ninth Circuit precedent, is the government  
27 "statutorily required to writ a defendant out of state custody and  
28 bring him before the federal district court for his revocation

1 hearing." United States v. Garrett, 253 F.3d 443 (9th Cir. 2001)  
2 (explaining that the government did not violate 18 U.S.C. 3583(i)  
3 by waiting until the petitioner was released from state custody to  
4 adjudicate alleged supervised release violations). In explaining  
5 its holding in Garrett, the Ninth Circuit noted that "requiring the  
6 federal government to writ a defendant out of state custody for a  
7 supervised release revocation hearing could prove extremely  
8 burdensome." (Id.)

9       Nonetheless, Petitioner asserts that the court should order a  
10 transfer through the exercise of its discretion. Assuming for the  
11 purposes of this order that the court has the authority to order  
12 Petitioner's transfer to federal custody for a revocation hearing,  
13 the court finds it would be inappropriate to do so in this  
14 circumstance.

15       There is well over a year remaining in Petitioner's sentence  
16 for the robbery and attempted robbery offenses. Thus, were the  
17 court to order a transfer out of the state facility to a federal  
18 facility in this district, Petitioner would very likely be  
19 transferred back to state custody promptly after the revocation  
20 hearing, resulting in a substantial burden on both state and  
21 federal corrections personnel. This burden is not justified by  
22 Petitioner's desire to have the opportunity to serve his state and  
23 federal sentences concurrently. A mid-sentence revocation hearing  
24 is not necessary to ensure an inmate has the possibility of  
25 avoiding successive sentences of confinement because the court  
26 could take time already served into account when determining the  
27 parole violation sentence. See 18 U.S.C § 3553 (providing that the  
28 court shall consider "the need for the sentence imposed ... to

1 provide just punishment for the offense [and] to afford adequate  
2 deterrence to criminal conduct"). Nor is the unusual step of a  
3 transfer justified by Petitioner's desire to access greater  
4 rehabilitative and job training programs at federal facilities, a  
5 desire shared by a great number, if not the majority, of inmates in  
6 state facilities.

7       Plaintiff additionally makes several claims regarding  
8 conditions of confinement at Kern Valley state prison and/or  
9 California Correctional Institution. Plaintiff alleges that the  
10 substance abuse and recidivism prevention treatment is inadequate  
11 (Petition, Memorandum, at 2-4); Petitioner's freedom to exercise  
12 religion is being unduly restricted through anti-semitic remarks by  
13 prison staff, restrictions on Petitioner's diet, and restrictions  
14 on pastoral visits (id. at 5-6); and that he has been subjected to  
15 retaliation by prison staff for submitting grievances regarding his  
16 conditions of confinement (id. At 7-8). Although Petitioner  
17 initially sought declaratory relief as to his First Amendment  
18 rights, (Petition at 2), Petitioner clarified in his Opposition to  
19 the government's Motion to Dismiss that he was withdrawing any  
20 request for declaratory relief and does not seek any injunction  
21 relative to prison staff. (Opposition, Memorandum, at 2, fn 3.)  
22 Petitioner further clarified that "he is asking the court to take  
23 notice of the conduct and use that conduct by staff in exercis[ing]  
24 its discretion" regarding sentencing by issuing a concurrent  
25 sentence. (Id.)

26       The court agrees with Petitioner that the extent to which an  
27 inmate has availed himself of rehabilitative programming and the  
28 extent of such programming available, as well as the experiences of

1 an inmate while in confinement and how the inmate has reacted to  
2 those experiences, are relevant factors in determining an  
3 appropriate sentence. Such factors are relevant to the "history and  
4 characteristics of the defendant" and the "need for the sentence  
5 imposed ... to protect the public from further crimes of the  
6 defendant." See 18 U.S.C § 3553 (1)-(2)(C). The court would  
7 consider evidence of this sort when it issues a federal parole  
8 violation sentence following Petitioner's completion of his  
9 sentence for the state law robbery and attempted robbery crimes.  
10 There is no cause, however, for the court to consider these issues  
11 at this juncture prior to sentencing.

12 To the extent that Petitioner seeks relief relative to the  
13 alleged First Amendment violations or other matters related to his  
14 conditions of confinement, the appropriate mechanism, after  
15 exhausting all available administrative remedies, is a civil rights  
16 suit pursuant to 21 U.S.C. § 1983. See Badesa v. Cox, 931 F.2d 573,  
17 574 (9th Cir. 1991) ("Habeas corpus proceedings are the proper  
18 mechanism for a prisoner to challenge the 'legality or duration' of  
19 confinement. Preiser v. Rodriguez, 411 U.S. 475, 484 ... (1973). A  
20 civil rights action, in contrast, is the proper method of  
21 challenging 'conditions of ... confinement.'" Id. at 498-99). Such  
22 a civil rights action should be brought in the district in which  
23 the prisoner is confined, in this case the Eastern District of  
24 California. See Wheeler v. United States, 640.2d. 1116, 1121 n.6  
25 (9th Cir.).

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1 **III. Conclusion**

2 For the reasons set forth above, the court DENIES the  
3 Petition.

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5 IT IS SO ORDERED.

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7 Dated: November 5, 2013

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DEAN D. PREGERSON  
United States District Judge