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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

JIMMY RAYMOND BLOW,)	1:07-CV-01119 OWW NEW (DLB) HC
)	
Petitioner,)	
)	FINDINGS AND RECOMMENDATION
v.)	REGARDING PETITION FOR WRIT OF
)	HABEAS CORPUS
)	
BUREAU OF PRISONS, et al.,)	
)	
Respondents.)	

Petitioner is a federal prisoner proceeding pro se with a petition for writ of habeas corpus pursuant to 28 U.S.C. § 2241.

DISCUSSION

On August 1, 2007, Petitioner filed a petition for writ of habeas corpus in this Court. In his petition, Petitioner requests a stay of transfer to another facility, an order granting him access to his legal materials and the law library, and a transfer to a privately managed prison outside the Bureau of Prisons and within the state system.

Writ of habeas corpus relief extends to a person in custody under the authority of the United States. See 28 U.S.C. § 2241. Writ of habeas corpus relief is available if a federal prisoner can show he is “in custody in violation of the Constitution or laws or treaties of the United States.” 28 U.S.C. § 2241(c)(3). However, where a Petitioner seeks to challenge the conditions of his confinement, his claims are cognizable in a civil rights action rather than a habeas corpus action. In the federal

1 context, Bivens v. Six Unknown Named Agents of Federal Bureau of Narcotics, 403 U.S. 388
2 (1971), provides petitioners with a remedy for violation of civil rights by federal actors. C.f., Badea
3 v. Cox, 931 F.2d 573, 574 (9th Cir. 1991) (challenges to conditions of confinement by state prisoners
4 should be presented in a 42 U.S.C. § 1983 civil rights action rather than a habeas corpus petition).

5 In this case, Petitioner's complaints involve the conditions of his confinement, not the fact or
6 duration of that confinement. Thus, Petitioner is not entitled to habeas corpus relief, and this petition
7 must be dismissed. Should Petitioner wish to pursue his claims, Petitioner must do so by way of a
8 civil rights complaint pursuant to Bivens, 403 U.S. 388 (1971) and 42 U.S.C. § 1983.

9 **RECOMMENDATION**

10 Accordingly, the Court RECOMMENDS that the petition for writ of habeas corpus be
11 DISMISSED because the petition does not allege grounds that would entitle Petitioner to habeas
12 corpus relief. The Court further RECOMMENDS that the Clerk of Court be DIRECTED to send
13 Petitioner the standard form for claims pursuant to Bivens, 403 U.S. 388 (1971) and 42 U.S.C.
14 § 1983.

15 These Findings and Recommendations are submitted to the Honorable Oliver W. Wanger,
16 United States District Court Judge, pursuant to the provisions of 28 U.S.C. § 636 (b)(1)(B) and Rule
17 72-304 of the Local Rules of Practice for the United States District Court, Eastern District of
18 California. Within twenty (20) days after being served with a copy, any party may file written
19 objections with the court and serve a copy on all parties. Such a document should be captioned
20 "Objections to Magistrate Judge's Findings and Recommendations." Replies to the objections shall
21 be served and filed within ten (10) court days (plus three days if served by mail) after service of the
22 objections. The Court will then review the Magistrate Judge's ruling pursuant to 28 U.S.C. § 636
23 (b)(1)(C). The parties are advised that failure to file objections within the specified time may waive
24 the right to appeal the District Court's order. Martinez v. Ylst, 951 F.2d 1153 (9th Cir. 1991).

25 IT IS SO ORDERED.

26 **Dated: August 20, 2007**

/s/ Dennis L. Beck
UNITED STATES MAGISTRATE JUDGE