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UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF CALIFORNIA

CHRISTIAN WILLIAMS,

1:10-cv-00143-AWI-DLB (HC)

Petitioner,

FINDINGS AND RECOMMENDATION
REGARDING PETITION FOR WRIT OF
HABEAS CORPUS

v.

[Doc. 1]

HECTOR A. RIOS,

Respondent.

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

Petitioner filed the instant petition for writ of habeas corpus on February 3, 2010. (Court Doc. 1.) Petitioner is currently detained at the United States Penitentiary in Atwater and challenges his placement in the Security Housing Unit (SHU).

DISCUSSION

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 context, Bivens v. Six Unknown Named Agents of Federal Bureau of Narcotics, 403 U.S. 388 (1971), provides petitioners with a remedy for violation of civil rights by

1 federal actors. C.f., Badea v. Cox, 931 F.2d 573, 574 (9th Cir. 1991) (challenges to conditions of
2 confinement by state prisoners should be presented in a 42 U.S.C. § 1983 civil rights action rather
3 than a habeas corpus petition).

4 In this instance, Petitioner does not challenge the fact or duration of his confinement;
5 rather, he challenges the conditions of his confinement. A civil rights complaint, not a habeas
6 corpus petition, is the proper mechanism for a prisoner challenging the conditions of his
7 confinement. See Bivens v. Six Unknown Named Agents of Federal Bureau of Narcotics, 403
8 U.S. 388 (1971). Accordingly, Petitioner is not entitled to relief under § 2241, and the instant
9 petition should be dismissed.

10 RECOMMENDATION

11 Based on the foregoing, it is HEREBY RECOMMENDED that the instant petition for
12 writ of habeas corpus be DISMISSED.

13 This Findings and Recommendation is submitted to the assigned United States District
14 Court Judge, pursuant to the provisions of 28 U.S.C. section 636 (b)(1)(B) and Rule 304 of the
15 Local Rules of Practice for the United States District Court, Eastern District of California. Within
16 thirty (30) days after being served with a copy, any party may file written objections with the
17 court and serve a copy on all parties. Such a document should be captioned “Objections to
18 Magistrate Judge’s Findings and Recommendation.” Replies to the objections shall be served and
19 filed within fourteen (14) days after service of the objections. The Court will then review the
20 Magistrate Judge’s ruling pursuant to 28 U.S.C. § 636 (b)(1)(C). The parties are advised that
21 failure to file objections within the specified time may waive the right to appeal the District
22 Court’s order. Martinez v. Ylst, 951 F.2d 1153 (9th Cir. 1991).

23 IT IS SO ORDERED.

24 **Dated: March 2, 2010**

/s/ Dennis L. Beck
UNITED STATES MAGISTRATE JUDGE