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IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

NOEL KEITH WATKINS,

Petitioner,

No. CIV S-11-1689 EFB P

vs.

VAMIL SINGH,

Respondent.

ORDER AND
FINDINGS AND RECOMMENDATIONS

_____/

Petitioner is a state prisoner without counsel seeking a writ of habeas corpus. *See* 28 U.S.C. § 2254. This proceeding was referred to this court by Local Rule 302 pursuant to 28 U.S.C. § 636(b)(1). In his petition, petitioner claims he has endured serious medical, safety, and housing problems because of a skin condition affecting up to one-third of his body.

In federal court, there are two main avenues to relief on complaints related to one’s imprisonment – a petition for habeas corpus pursuant to 28 U.S.C. § 2254, and a civil rights complaint pursuant to 42 U.S.C. § 1983. Challenges to the validity of one’s confinement or the duration of one’s confinement are properly brought in a habeas action, whereas requests for relief turning on the circumstances of one’s confinement are properly brought in a § 1983 action. *Muhammad v. Close*, 540 U.S. 749, 750 (2004) (citing *Preiser v. Rodriguez*, 411 U.S. 475, 500 (1973)); *see also* 28 U.S.C. § 2254(a) (“[A] district court shall entertain an application for a writ

1 of habeas corpus in behalf of a person in custody pursuant to the judgment of a State court only
2 on the ground that he is in custody in violation of the Constitution or laws or treaties of the
3 United States.”); Advisory Committee Notes to Rule 1 of the Rules Governing § 2254 Cases.

4 Here, petitioner’s claim concerns the conditions of his confinement only and does not
5 concern the validity or duration of his confinement. Therefore, this case should be dismissed
6 without prejudice to filing a civil rights action pursuant to 42 U.S.C. § 1983. See Rule 4, Rules
7 Governing § 2254 Cases.

8 Accordingly, IT IS HEREBY ORDERED that the Clerk of the Court shall randomly
9 assign a United States District Judge to this case.

10 Further, IT IS HEREBY RECOMMENDED that this action be dismissed.

11 These findings and recommendations are submitted to the United States District Judge
12 assigned to the case, pursuant to the provisions of 28 U.S.C. § 636(b)(1). Within fourteen days
13 after being served with these findings and recommendations, any party may file written
14 objections with the court and serve a copy on all parties. Such a document should be captioned
15 “Objections to Magistrate Judge’s Findings and Recommendations.” Failure to file objections
16 within the specified time may waive the right to appeal the District Court’s order. *Turner v.*
17 *Duncan*, 158 F.3d 449, 455 (9th Cir. 1998); *Martinez v. Ylst*, 951 F.2d 1153 (9th Cir. 1991).

18 Dated: August 30, 2011.

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20 EDMUND F. BRENNAN
21 UNITED STATES MAGISTRATE JUDGE
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