

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

J.P. PARRELL,) CASE NO. CV 12-1417 DMG (RZ)

Petitioner,)
) ORDER SUMMARILY DISMISSING
) ACTION

KAMALA HARRIS,

Respondent.

Because Petitioner challenges *conditions of* his confinement rather than the *validity or duration of* that confinement, this action is not a proper petition for habeas corpus relief. Thus, the Court will dismiss the action summarily, albeit without prejudice to Petitioner's pursuit of relief through a civil rights action.

I.

BACKGROUND

Petitioner J.P. Parnell is a state inmate. He is dissatisfied with certain conditions of his confinement. (His first-mentioned grievances are (1) the prison's "ban on natural sugar products in favor of artificial sweeteners . . . to thwart the manufacture of jailhouse wine (pruno)," and (2) "the proscription on prisoners leaving the dining room with whole pieces of fruit[.]" Pet. at 5A.) But Petitioner does not pray for a reversal of any conviction

1 or seek an accelerated release from confinement, and therefore habeas is not the proper
2 vehicle for review of Petitioners' claim(s).

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4 **II.**

5 **HABEAS CORPUS GENERALLY MAY CHALLENGE THE FACT OR**
6 **DURATION OF CONFINEMENT, BUT NOT THE CONDITIONS THEREOF**

7 The principal purpose of a habeas corpus writ is to provide a remedy for prisoners
8 challenging the *fact or duration* of their confinement and who, thus, are seeking either
9 immediate release or a sooner-than-currently-scheduled release. *See Preiser v. Rodriguez*,
10 411 U.S. 475, 484, 93 S. Ct. 1827, 36 L. Ed. 2d 439 (1973) (holding that habeas petition,
11 not civil rights action, was proper vehicle for seeking restoration of good-time credits).
12 The Supreme Court has left open the possibility that habeas petitions "may . . . also be
13 available to challenge . . . prison conditions," which ordinarily must be challenged by way
14 of a civil rights action. *Id.*, 411 U.S. at 499-500; *accord, Bell v. Wolfish*, 441 U.S. 520, 526
15 n.6, 99 S. Ct. 1861, 60 L. Ed. 2d 447 (1979) (noting the possibility of habeas as a means
16 to address prison conditions, but declining to decide the issue). Nor has the Ninth Circuit
17 completely foreclosed the possible use of habeas actions to challenge prison living
18 conditions. *See Bostic v. Carlson*, 884 F.2d 1267, 1269 (9th Cir. 1989) (assuming without
19 discussion that habeas could provide relief on a prisoner's claim of having been placed in
20 disciplinary segregation without due process); *see also Fierro v. Gomez*, 77 F.3d 301, 304
21 n.2 (9th Cir. 1996) (indicating that the issue remains unresolved in this Circuit), *vacated*
22 *on other grounds*, 519 U.S. 918, 117 S. Ct. 285, 136 L. Ed. 2d 204 (1996).

23 But such use of the habeas corpus action appears to be the exception. The Ninth
24 Circuit has made clear that the preferred, "proper" practice is to limit habeas cases to
25 claims that would lead to the petitioner's release sooner than otherwise would occur, and
26 to confine other prisoner claims to civil rights suits. *See Badea v. Cox*, 931 F.2d 573, 574
27 (9th Cir. 1991) (holding that, because the subset of prisoner-plaintiff claims that could have
28 been brought in a habeas action had become moot, district court could and should proceed

1 with remaining claims, which challenged conditions, and not fact or duration, of
2 confinement); *accord*, *Crawford v. Bell*, 599 F.2d 890, 891-92 & n.1 (9th Cir. 1979)
3 (affirming dismissal of habeas petition because petition's challenges to conditions of
4 confinement must be brought in civil rights action).

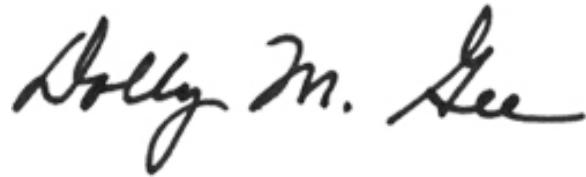
5 Here, if Petitioner's claims about the conditions of his confinement were to succeed,
6 he would not thereby be entitled to an accelerated release from confinement. The Court sees
7 no justification in this instance for deviating from what the Supreme Court in *Preiser* and
8 the Ninth Circuit in *Badea* have held to be the "proper" course, namely requiring conditions-
9 of-confinement claims like Petitioners' to be brought in a civil rights lawsuit, not in a habeas
10 corpus petition.

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12 **III.**
13 **CONCLUSION**

14 For the foregoing reasons, the Court DISMISSES the action without prejudice to his
15 pursuit of civil rights relief instead of habeas relief.

16 **IT IS SO ORDERED.**

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18 DATED: April 16, 2012
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DOLLY M. GEE
UNITED STATES DISTRICT JUDGE