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7 UNITED STATES DISTRICT COURT
8 CENTRAL DISTRICT OF CALIFORNIA

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10 LUIS BILBUA,) Case No. CV 14-1038-DDP (JPR)
11)
12) Petitioner,) MEMORANDUM AND ORDER SUMMARILY
13) vs.) DISMISSING ACTION WITHOUT
14) PREJUDICE
15)
16) JUDGE HENRY HALL,)
17)
18) Respondent.)

19 This habeas corpus action improperly challenges the
20 conditions of Petitioner's confinement rather than the validity
21 or duration of that confinement. Accordingly, the Court
22 dismisses the Petition summarily, without prejudice to
23 Petitioner's pursuit of relief through a civil-rights action
24 under 42 U.S.C. § 1983.

25 Petitioner is a state inmate housed at Los Angeles County
26 Jail. (Pet. at 2.) He complains in conclusory fashion about "no
27 yard time - no medical help - no dental help - hot meal - food is
28 terrible - I'm in a county jail serving 3 years when I should be
in prison but I'm a non-violent offender senior citizen." (Pet.
at 3.) The only other allegation in the Petition is that "[t]he
conditions for one my age are wrong, if he intended to give me
high term it should have been in prison." (Id.)

1 The principal purpose of habeas corpus is to provide a
2 remedy for prisoners challenging the fact or duration of their
3 confinement and who are thus seeking either immediate or a
4 sooner-than-scheduled release. See Preiser v. Rodriguez, 411
5 U.S. 475, 484, 487, 93 S. Ct. 1827, 1833, 1835, 36 L. Ed. 2d 439
6 (1973) (holding that habeas petition, not civil-rights action,
7 proper vehicle for seeking restoration of good-time credits).
8 The Supreme Court has left open the possibility that habeas
9 petitions "may . . . also be available to challenge . . . prison
10 conditions," which ordinarily must be challenged by way of a
11 civil-rights action. Id. at 499-500; accord Bell v. Wolfish, 441
12 U.S. 520, 526 n.6, 99 S. Ct. 1861, 1867 n.6, 60 L. Ed. 2d 447
13 (1979) (noting possibility of habeas as means to address prison
14 conditions but declining to decide issue). Nor has the Ninth
15 Circuit foreclosed the use of habeas actions to challenge prison
16 living conditions. See Docken v. Chase, 393 F.3d 1024, 1030 &
17 n.6 (9th Cir. 2004) (collecting cases illustrating how Ninth and
18 several other "Circuits have all struggled . . . with the
19 distinction between the two remedies" but noting that "[n]one
20 ha[s] suggested that the avenues for relief must always be
21 mutually exclusive").

22 Allowing a habeas corpus action to challenge prison
23 conditions appears to be the rare exception, however. The Ninth
24 Circuit has made clear that the preferred, "proper" practice is
25 to limit habeas cases to claims that would lead to the
26 petitioner's release sooner than otherwise would occur and to
27 confine other prisoner claims to civil-rights suits. See Badea
28 v. Cox, 931 F.2d 573, 574 (9th Cir. 1991) ("A civil rights

1 action, in contrast [to a habeas petition], is the proper method
2 of challenging 'conditions of . . . confinement.'" (alteration in
3 original)); accord Crawford v. Bell, 599 F.2d 890, 891-92 & n.1
4 (9th Cir. 1979) (affirming dismissal of habeas petition because
5 petition's challenges to conditions of confinement had to be
6 brought in civil-rights action).

7 Here, if Petitioner's claims were to succeed, he would not
8 be entitled to an accelerated release from confinement. Instead,
9 he would be entitled to different or "better" housing. The Court
10 sees no justification for deviating from the "proper" course,
11 namely, requiring conditions-of-confinement claims like
12 Petitioner's to be brought in a civil-rights action. Although a
13 district court does have discretion to construe a habeas petition
14 raising civil-rights claims as a civil-rights action, see
15 Wilwording v. Swenson, 404 U.S. 249, 251, 92 S. Ct. 407, 409, 30
16 L. Ed. 2d 418 (1971) (per curiam), superseded by statute on other
17 grounds as stated in Woodford v. Ngo, 548 U.S. 81, 84, 126 S. Ct.
18 2378, 2382, 165 L. Ed. 2d 368 (2006), the Court chooses not to do
19 so here, given that Petitioner's claims are entirely conclusory,
20 he has not paid the \$350 filing fee (or requested in forma
21 pauperis status) to initiate a civil-rights action, and Defendant
22 Judge Hall likely has absolute immunity, see Schucker v.
23 Rockwood, 846 F.2d 1202, 1204 (9th Cir. 1988) (per curiam)
24 ("Judges are absolutely immune from damages actions for judicial
25 acts taken within the jurisdiction of their courts.").
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1 For the foregoing reasons, the Court DISMISSES this action
2 WITHOUT PREJUDICE.

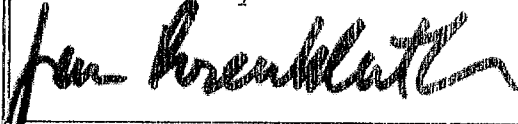
3 IT IS SO ORDERED.

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6 DATED: MAY 15 2014



7 DEAN D. PREGERSON
8 U.S. DISTRICT JUDGE

9 Presented by:



11 Jean P. Rosenbluth
12 U.S. Magistrate Judge

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