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UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

CHARLES COOPER, Petitioner, v. LOS ANGELES SHERIFF JAIL, Respondent.	}	NO. CV 17-5226-FMO (AGR) ORDER DISMISSING HABEAS CORPUS PETITION WITHOUT PREJUDICE
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For the reasons discussed below, the Court summarily dismisses this action without prejudice.

I.
BACKGROUND

Petitioner is an state inmate. He indicates on the form petition that he does not challenge a conviction, sentence, prison discipline, or parole problem. (Petition at 2.) Instead, he seeks (1) appointment of counsel in each of his two pending civil rights actions in this Court,¹ and (2) certain discovery relating to one or both of those actions. (*Id.* at 5.)

¹ Petitioner correctly identifies one pending case’s number, No. CV 17-2463-FMO (AGR). He mistakenly identifies the other pending case as No. CV 16-0088-FMO (AGR). That case was dismissed and is closed. The Court construes the Petition as referring to Petitioner’s other pending civil rights case, No. CV 17-2639-FMO (AGR).

1 II.

2 **DISCUSSION**

3 Rule 4 of the Rules Governing Section 2254 Cases in the United States
4 Courts provides that “[i]f it plainly appears from the face of the petition and any
5 attached exhibits that the petitioner is not entitled to relief in the district court, the
6 judge must dismiss the petition and direct the clerk to notify the petitioner.” Here,
7 summary dismissal is warranted.

8 “[W]hen a state prisoner is challenging the very fact or duration of his
9 physical imprisonment, and the relief he seeks is a determination that he is
10 entitled to immediate release or a speedier release from that imprisonment, his
11 sole federal remedy is a writ of habeas corpus.” *Preiser v. Rodriguez*, 411 U.S.
12 475, 500 (1973).

13 “Suits challenging the validity of the prisoner’s continued incarceration lie
14 within ‘the heart of habeas corpus,’ whereas ‘a § 1983 action is a proper remedy
15 for a state prisoner who is making a constitutional challenge to the conditions of
16 his prison life, but not to the fact or length of his custody.’” *Ramirez v. Galaza*,
17 334 F.3d 850, 856 (9th Cir. 2003) (quoting *Preiser*, 411 U.S. at 498-99)). The
18 Ninth Circuit has held that “a § 1983 action is the exclusive vehicle for claims
19 brought by state prisoners that are not within the core of habeas corpus.” *Nettles*
20 *v. Grounds*, 830 F.3d 922, 927 (9th Cir. 2016) (en banc), *cert. denied*, 137 S. Ct.
21 645 (2017).

22 The Petition lists two grounds for relief. Ground One seeks appointment of
23 counsel in Petitioner’s two civil rights cases. Ground Two seeks discovery of a
24 video from Twin Towers in support of one or both civil rights cases. Petitioner
25 clearly does not challenge his conviction, sentence or the duration of his
26 confinement. His habeas petition must be summarily dismissed.

27 In the interests of justice and efficiency, the Court will direct the Clerk to file
28 the petition as a motion in each of Petitioner’s two pending civil rights cases, so

