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**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA**

SHANE DOUGLAS SICHTING,)	Case No. CV 20-8142-DSF (JPR)
)	
Petitioner,)	
)	
v.)	ORDER ACCEPTING FINDINGS AND
)	RECOMMENDATIONS OF U.S.
STEVE KALLIS, Warden, ¹)	MAGISTRATE JUDGE AND DENYING
)	CERTIFICATE OF APPEALABILITY
Respondent.)	
)	
_____)	

Pursuant to 28 U.S.C. § 636, the Court has reviewed the Petition, records on file, and Report and Recommendation of U.S. Magistrate Judge. On August 30, 2021, Petitioner filed objections to the R. & R., and on September 14 Respondent responded.

In his Objections, Petitioner continues to complain about the medical treatment he received at FCI Lompoc (see, e.g., Objs. at 3, 5), which the Magistrate Judge correctly explained should

¹As noted herein, Petitioner has been transferred to the Federal Medical Center in Rochester, Minnesota, where Steve Kallis is the Warden. He is therefore substituted in as the proper Respondent. See Fed. R. Civ. P. 25(d).

1 have been raised in a civil-rights action, not a habeas Petition.
2 Regardless, in July 2021 he was transferred to a prison
3 specializing in medical care. (See Resp. at 2.) Thus, because
4 the Petition challenged only his treatment at Lompoc and did not
5 seek money damages, his claims are moot. Cf. Dilley v. Gunn, 64
6 F.3d 1365, 1368 (9th Cir. 1995). In any event, Petitioner
7 acknowledges, and the attachments to his Objections confirm, that
8 he did not contract COVID-19 during his incarceration at Lompoc,
9 the original basis for the Petition. (See Objs. at 3.) His
10 attempt in his Objections to reframe his "prison conditions"
11 claims concerning COVID (Pet. at 3) as a challenge to his
12 original sentence under the Eighth Amendment (see Objs. at 1) is
13 improperly raised for the first time, and the Court declines to
14 consider it even if it has discretion to do so. See Akhtar v.
15 Mesa, 698 F.3d 1202, 1208 (9th Cir. 2012). Any such claim would
16 likely have to be brought to the sentencing court in a motion
17 under 28 U.S.C. § 2255.

18 Having reviewed de novo those portions of the Report and
19 Recommendation to which Petitioner objected, the Court accepts
20 the findings and recommendations of the Magistrate Judge. IT
21 THEREFORE IS ORDERED that the Petition is denied and judgment be
22 entered dismissing this action. To the extent one is even
23 authorized given that this is a disguised civil-rights action, a
24 certificate of appealability is DENIED.

25
26 DATED: September 20, 2021



DALE S. FISCHER
U.S. DISTRICT JUDGE