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UNITED STATES DISTRICT COURT

CENTRAL DISTRICT OF CALIFORNIA

AZAEL DYTHIAN PERALES, Petitioner, v. VIRGIN MOBILE USA, et al., Respondents.	NO. SACV 11-1656 JVS (AGR) **OPINION AND ORDER ON PETITION FOR WRIT OF HABEAS CORPUS**

On October 17, 2011, Petitioner, proceeding *pro se*, filed this action. Although Petitioner alleges his pleading is a petition for writ of habeas corpus (Petition at 7), it is not cognizable on habeas. Petitioner is not incarcerated. *See* 28 U.S.C. § 2254(a). He does not challenge a state judgment. *Id.* He meets none of the requirements set forth in 28 U.S.C. § 2241(c). Instead, Petitioner's pleading consists of unintelligible, frivolous allegations against parties as diverse as Richard Branson, President Obama, the Commissioner of the Internal Revenue Service, Eric Holder, the president of the Screen Actors Guild, the Pope, Marie Callender's, and the Queen of England. Petitioner is a frequent filer of civil complaints in the Central District, and his actions have frequently been dismissed because they are frivolous under 28 U.S.C. § 1915(e)(2)(B)(i). *See,*

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e.g., Perales v. Apex Building Maintenance, Case No. CV 10-16, Dkt. No. 2 (collecting previous denials).

Rule 4 of the Rules Governing Section 2254 Cases in the United States Courts provides that "[i]f it plainly appears from the face of the petition . . . that the petitioner is not entitled to relief in the district court," the judge must dismiss the petition and direct the clerk to notify the petitioner. *See also Hendricks v. Vasquez*, 908 F.2d 490, 491 (9th Cir. 1990).

Summary dismissal is appropriate here because the petition is not cognizable under habeas and is frivolous. *See Mayle v. Felix*, 545 U.S. 644, 669-70, 125 S. Ct. 2562, 162 L. Ed. 2d 582 (2005) ("the purpose of the heightened pleading standard in habeas cases is to help a district court weed out frivolous petitions before calling upon the State to answer"); *Blackledge v. Allison*, 431 U.S. 63, 76, 97 S. Ct. 1621, 52 L. Ed. 2d 136 (1977) (summary dismissal is appropriate when the allegations are 'patently frivolous or false'") (citation omitted); *see also Hendricks*, 908 F.2d at 491 ("Summary dismissal is appropriate . . . where the allegations in the petition are 'palpably incredible'") (citation omitted).

IT IS HEREBY ORDERED that Judgment be entered summarily dismissing the petition.

DATED: November 8, 2011

JAMES V. SELNA
United States District Judge

Presented by:

ALICIA G. ROSENBERG
United States Magistrate Judge