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UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF CALIFORNIA

AARON LYNDAL COOPER,

Petitioner,

vs.

JEANNA WOODFORD, et al.,

Respondents.

CASE NO. 1:10-cv-01124-OWW-SMS (HC)

FINDINGS AND RECOMMENDATIONS
RECOMMENDING DISMISSAL OF
PETITION FOR WRIT OF HABEAS CORPUS

(Doc. 13)

FIFTEEN-DAY OBJECTION PERIOD

On June 15, 2010, Petitioner Aaron L. Cooper, a state prisoner proceeding pro se, filed a petition for writ of habeas corpus, which was stricken from the record on July 20, 2010, for lack of signature. On August 19, 2010, Plaintiff filed a signed petition.

Petitioner is attempting to appeal the denial of his habeas corpus petition by the Kern County Superior Court, the Fifth District Court of Appeal, and the Supreme Court of California. Petitioner receives vegetarian meals in accommodation of his religion. Title 15 regulations provide that two of the three daily meals served daily shall be hot. Petitioner contends that the meat substitute he is served is cold, resulting in the denial of two hot meals per day, in violation of his rights under the Eighth Amendment and the Due Process Clause of the Fourteenth Amendment.

A habeas petition in federal court is the proper mechanism to challenge the fact or duration of confinement while challenges to conditions of confinement, such as those set forth in the petition,

1 must be raised in a civil rights action.¹ 28 U.S.C. § 2254(a); Badea v.Cox, 931 F.2d 573, 574 (9th
2 Cir. 1991) (citing Preiser v. Rodriguez, 411 U.S. 475, 485, 93 S.Ct. 1827, 1833 (1973)).
3 Accordingly, it is HEREBY RECOMMENDED that the petition for writ of habeas corpus be
4 dismissed for failure to set forth grounds that would entitle Petitioner to relief.

5 These Findings and Recommendations will be submitted to the United States District Judge
6 assigned to the case, pursuant to the provisions of Title 28 U.S.C. § 636(b)(1). Within **fifteen (15)**
7 **days** after being served with these Findings and Recommendations, Petitioner may file written
8 objections with the Court. The document should be captioned “Objections to Magistrate Judge’s
9 Findings and Recommendations.” Petitioner is advised that failure to file objections within the
10 specified time may waive the right to appeal the District Court’s order. Martinez v. Ylst, 951 F.2d
11 1153 (9th Cir. 1991).

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15 IT IS SO ORDERED.

16 **Dated:** November 19, 2010

/s/ Sandra M. Snyder
UNITED STATES MAGISTRATE JUDGE

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28 ¹ In the order striking the original petition for lack of signature, Petitioner was advised of the difference
between habeas and civil rights actions, and he was provided with a blank complaint form and a blank petition.
Petitioner opted to stand by his original decision to pursue habeas relief.