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**UNITED STATES DISTRICT COURT**

EASTERN DISTRICT OF CALIFORNIA

THOMAS L. DAVIS,

Plaintiff,

v.

UNITED STATES OF AMERICA, et al.,

Defendants.

CASE NO. 1:10-cv-02219-OWW-SMS PC

ORDER DENYING MOTION FOR RELEASE FROM CUSTODY

(Doc. 7)

Plaintiff Thomas L. Davis, a federal prisoner proceeding pro se and in forma pauperis, filed this civil action on November 30, 2010. On February 17, 2011, Plaintiff sent the Court a letter stating that his life is in imminent danger at Bureau of Prison facilities and the only way to ensure his safety is to release him on home detention.

This is a civil action seeking redress under 28 U.S.C. § 1346(b) (the Federal Tort Claims Act) and Bivens v. Six Unknown Named Agents of Federal Bureau of Narcotics, 403 U.S. 388, 91 S.Ct. 1999 (1971) for the alleged negligence of federal officers and the violation of Plaintiff’s constitutional rights by federal officers. Plaintiff may not seek release from custody as relief in a civil rights action. Challenges to Plaintiff’s retention in prison must be brought via a petition for writ of habeas corpus. 22 U.S.C. §§ 2241, 2255.

Further, the incident complained of in Plaintiff’s letter occurred on February 9, 2011, at the United States Penitentiary-Victorville, where Plaintiff is currently housed. The past events giving rise to Plaintiff’s claims in this action occurred at the United States Penitentiary-Atwater, and therefore, the Court has no jurisdiction to issues orders relating to Plaintiff’s conditions of

1 confinement at USP-Victorville. 18 U.S.C. § 3626(a)(1)(A); Horne v. Flores, \_\_ U.S. \_\_, \_\_, 129  
2 S.Ct. 2579, 2592) (2009); Summers v. Earth Island Institute, \_\_ U.S. \_\_, \_\_, 129 S.Ct. 1142, 1148-49  
3 (2009); Mayfield v. United States, 599 F.3d 964, 969 (9th Cir. 2010).

4           Accordingly, Plaintiff’s motion for release from custody is HEREBY DENIED. If Plaintiff  
5 would like the Court to forward his letter and request that the Warden look into Plaintiff’s safety  
6 concerns, Plaintiff may notify the Court and it will do so.

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9 IT IS SO ORDERED.

10 **Dated:** February 25, 2011

/s/ Oliver W. Wanger  
UNITED STATES DISTRICT JUDGE