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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

MICHAEL B. WILLIAMS,)	1:11-cv-00049-SKO-HC
)	
Petitioner,)	ORDER DISMISSING THE PETITION
)	(Doc. 1) AND DECLINING TO ISSUE A
)	CERTIFICATE OF APPEALABILITY
v.)	
)	ORDER DIRECTING THE CLERK TO
PAM AHLIN, Executive Director)	CLOSE THE CASE AND TO SEND TO
of the Coalinga State)	PETITIONER A BLANK CIVIL RIGHTS
Hospital,)	COMPLAINT FORM
)	
Respondent.)	
)	
)	

Petitioner is a civil detainee proceeding pro se and in forma pauperis with a petition for writ of habeas corpus pursuant to 28 U.S.C. § 2254. Pursuant to 28 U.S.C. § 636(c)(1), Petitioner has consented to the jurisdiction of the United States Magistrate Judge to conduct all further proceedings in the case, including the entry of final judgment, by manifesting consent in a signed writing filed by Petitioner on January 18, 2011 (doc. 4). Pending before the Court is the petition, which was filed on January 11, 2011.

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1 I. Screening the Petition

2 Rule 4 of the Rules Governing § 2254 Cases in the United
3 States District Courts (Habeas Rules) requires the Court to make
4 a preliminary review of each petition for writ of habeas corpus.
5 The Court must summarily dismiss a petition "[i]f it plainly
6 appears from the petition and any attached exhibits that the
7 petitioner is not entitled to relief in the district court...."
8 Habeas Rule 4; O'Bremski v. Maass, 915 F.2d 418, 420 (9th Cir.
9 1990); see also Hendricks v. Vasquez, 908 F.2d 490 (9th Cir.
10 1990). Habeas Rule 2(c) requires that a petition 1) specify all
11 grounds of relief available to the Petitioner; 2) state the facts
12 supporting each ground; and 3) state the relief requested.
13 Notice pleading is not sufficient; rather, the petition must
14 state facts that point to a real possibility of constitutional
15 error. Rule 4, Adv. Comm. Notes, 1976 Adoption; O'Bremski v.
16 Maass, 915 F.2d at 420 (quoting Blackledge v. Allison, 431 U.S.
17 63, 75 n. 7 (1977)).

18 Further, the Court may dismiss a petition for writ of habeas
19 corpus either on its own motion under Rule 4, pursuant to the
20 respondent's motion to dismiss, or after an answer to the
21 petition has been filed. Advisory Committee Notes to Habeas Rule
22 8, 1976 Adoption; see, Herbst v. Cook, 260 F.3d 1039, 1042-43
23 (9th Cir. 2001).

24 II. Conditions of Confinement

25 A federal court may only grant a petition for writ of habeas
26 corpus if the petitioner can show that "he is in custody in
27 violation of the Constitution or laws or treaties of the United
28 States." 28 U.S.C. § 2254(a). A habeas corpus petition is the

1 correct method for a prisoner to challenge the legality or
2 duration of his confinement. Badea v. Cox, 931 F.2d 573, 574
3 (9th Cir. 1991) (quoting Preiser v. Rodriguez, 411 U.S. 475, 485
4 (1973)); Advisory Committee Notes to Habeas Rule 1, 1976
5 Adoption.

6 In contrast, a civil rights action pursuant to
7 42 U.S.C. § 1983 is the proper method for a prisoner to challenge
8 the conditions of that confinement. McCarthy v. Bronson, 500
9 U.S. 136, 141-42 (1991); Preiser, 411 U.S. at 499; Badea, 931
10 F.2d at 574; Advisory Committee Notes to Habeas Rule 1.

11 Petitioner, a patient and civil detainee who is
12 involuntarily confined at the Coalinga State Hospital, sues the
13 hospital and two individual supervisors for monetary,
14 declaratory, and injunctive relief, including wages and overtime
15 compensation for labor that Petitioner alleges he was forced to
16 perform in the hospital. (Pet. 1, 4.) Petitioner seeks to have
17 the Court certify his lawsuit as a class action. (Pet. 25.)
18 Petitioner alleges that his rights under the Thirteenth Amendment
19 were violated, and he further proceeds under the Fair Labor
20 Standards Act, 29 U.S.C. § 201. (Pet. 4, 8.)

21 Petitioner's allegations concern his conditions of
22 confinement; his allegations do not concern the legality or
23 duration of his confinement. Thus, Petitioner is not entitled to
24 habeas corpus relief, and the petition must be dismissed.

25 Should Petitioner wish to pursue his claims, he must do so
26 by way of a civil rights complaint pursuant to 42 U.S.C. § 1983.
27 The Clerk will be directed to send an appropriate complaint form
28 to Petitioner.

1 III. Certificate of Appealability

2 Unless a circuit justice or judge issues a certificate of
3 appealability, an appeal may not be taken to the Court of Appeals
4 from the final order in a habeas proceeding in which the
5 detention complained of arises out of process issued by a state
6 court. 28 U.S.C. § 2253(c)(1)(A); Miller-El v. Cockrell, 537
7 U.S. 322, 336 (2003). A certificate of appealability may issue
8 only if the applicant makes a substantial showing of the denial
9 of a constitutional right. § 2253(c)(2). Under this standard, a
10 petitioner must show that reasonable jurists could debate whether
11 the petition should have been resolved in a different manner or
12 that the issues presented were adequate to deserve encouragement
13 to proceed further. Miller-El v. Cockrell, 537 U.S. at 336
14 (quoting Slack v. McDaniel, 529 U.S. 473, 484 (2000)). A
15 certificate should issue if the Petitioner shows that jurists of
16 reason would find it debatable whether the petition states a
17 valid claim of the denial of a constitutional right and that
18 jurists of reason would find it debatable whether the district
19 court was correct in any procedural ruling. Slack v. McDaniel,
20 529 U.S. 473, 483-84 (2000). In determining this issue, a court
21 conducts an overview of the claims in the habeas petition,
22 generally assesses their merits, and determines whether the
23 resolution was debatable among jurists of reason or wrong. Id.
24 It is necessary for an applicant to show more than an absence of
25 frivolity or the existence of mere good faith; however, it is not
26 necessary for an applicant to show that the appeal will succeed.
27 Miller-El v. Cockrell, 537 U.S. at 338.

28 A district court must issue or deny a certificate of

1 appealability when it enters a final order adverse to the
2 applicant. Habeas Rule 11(a).

3 Here, it does not appear that reasonable jurists could
4 debate whether the petition should have been resolved in a
5 different manner. Petitioner has not made a substantial showing
6 of the denial of a constitutional right. Accordingly, the Court
7 will decline to issue a certificate of appealability.

8 IV. Disposition

9 Accordingly, it is ORDERED that:

- 10 1) The petition for writ of habeas corpus is DISMISSED; and
11 2) The Clerk is DIRECTED to close the case; and
12 3) The Court DECLINES to issue a certificate of
13 appealability; and
14 4) The Clerk is DIRECTED to send to Petitioner a civil
15 rights complaint form for a person in custody.

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17 IT IS SO ORDERED.

18 **Dated: February 3, 2011**

/s/ Sheila K. Oberto
UNITED STATES MAGISTRATE JUDGE

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