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**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA**

JOSEPH ANTHONY BROWN,)	1:14-cv-00481 LJO GSA HC
)	
Petitioner,)	
)	FINDINGS AND RECOMMENDATION
)	REGARDING PETITION FOR WRIT OF HABEAS
v.)	CORPUS
)	
)	
PAUL COPENHAVER, Warden,)	
)	
Respondent.)	

Petitioner is a federal prisoner proceeding pro se with a petition for writ of habeas corpus pursuant to 28 U.S.C. § 2241.

On April 4, 2014, Petitioner filed the instant petition for writ of habeas corpus. He claims that prison staff have wrongfully referred him for placement in a “Control Unit Facility” in spite of certain mental health evaluations.

Writ of habeas corpus relief extends to a person in custody under the authority of the United States. See 28 U.S.C. § 2241. Writ of habeas corpus relief is available if a federal prisoner can show he is “in custody in violation of the Constitution or laws or treaties of the United States.” 28 U.S.C. § 2241(c)(3). However, where a Petitioner seeks to challenge the conditions of his confinement, his claims are cognizable in a civil rights action rather than a habeas corpus action. In the federal context,

1 Bivens v. Six Unknown Named Agents of Federal Bureau of Narcotics, 403 U.S. 388 (1971), provides
2 petitioners with a remedy for violation of civil rights by federal actors. C.f., Badea v. Cox, 931 F.2d
3 573, 574 (9th Cir. 1991) (challenges to conditions of confinement by state prisoners should be
4 presented in a 42 U.S.C. § 1983 civil rights action rather than a habeas corpus petition).

5 In this case, Petitioner’s complaints involve the conditions of his confinement, not the fact or
6 duration of that confinement. Thus, Petitioner is not entitled to habeas corpus relief and this petition
7 must be dismissed. Should Petitioner wish to pursue his claims, Petitioner must do so by way of a
8 civil rights complaint pursuant to Bivens, 403 U.S. 388 (1971) and 42 U.S.C. § 1983.

9 **RECOMMENDATION**

10 Accordingly, IT IS HEREBY RECOMMENDED that the petition for writ of habeas corpus be
11 DISMISSED, and the Clerk of Court be DIRECTED to provide Petitioner with the standard form for
12 filing a civil rights action pursuant to Bivens, 403 U.S. 388 (1971) and 42 U.S.C. § 1983.

13 This Findings and Recommendation is submitted to the Honorable Lawrence J. O’Neill, United
14 States District Court Judge, pursuant to the provisions of 28 U.S.C. section 636 (b)(1)(B) and Rule 304
15 of the Local Rules of Practice for the United States District Court, Eastern District of California.

16 Within thirty (30) days after being served with a copy, Petitioner may file written objections
17 with the Court. Such a document should be captioned “Objections to Magistrate Judge’s Findings and
18 Recommendation.” The Court will then review the Magistrate Judge’s ruling pursuant to 28 U.S.C. §
19 636 (b)(1)(C). Petitioner is advised that failure to file objections within the specified time may waive
20 the right to appeal the District Court’s order. Martinez v. Ylst, 951 F.2d 1153 (9th Cir. 1991).

21
22 IT IS SO ORDERED.

23 Dated: May 8, 2014

/s/ Gary S. Austin
UNITED STATES MAGISTRATE JUDGE