

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
**UNITED STATES DISTRICT COURT**  
**EASTERN DISTRICT OF CALIFORNIA**

11 ARCHIE CRANFORD,

12 Petitioner,

13 v.

14 EMPLOYEES OF COALINGA HOSPITAL,

15 Respondents.

Case No. 1:14-cv-01321-SAB-HC

ORDER DISMISSING PETITION FOR  
WRIT OF HABEAS CORPUS  
(ECF No. 1)

ORDER DIRECTING CLERK OF COURT  
TO ENTER JUDGMENT AND CLOSE  
CASE

ORDER DECLINING ISSUANCE OF  
CERTIFICATE OF APPEALABILITY

16  
17  
18 Petitioner is proceeding pro se with a petition for writ of habeas corpus pursuant to 28  
19 U.S.C. § 2254. He has consented to the jurisdiction of the Magistrate Judge pursuant to 28  
20 U.S.C. § 636(c).

21 Petitioner filed the instant petition for writ of habeas corpus on August 25, 2014.  
22 Petitioner claims he is a pre-trial detainee. However, he is currently confined at Coalinga State  
23 Hospital pursuant to the Sexually Violent Predator Act.

24 **I.**

25 **DISCUSSION**

26  
27 Rule 4 of the Rules Governing § 2254 Cases requires the Court to make a preliminary  
28 review of each petition for writ of habeas corpus. The Court must dismiss a petition "[i]f it

1 plainly appears from the petition . . . that the petitioner is not entitled to relief." Rule 4 of the  
2 Rules Governing Section 2254 Cases; see also Hendricks v. Vasquez, 908 F.2d 490 (9th  
3 Cir.1990).

4 This Court has a duty to determine its own subject matter jurisdiction, and lack of subject  
5 matter jurisdiction can be raised on the Court's own motion at any time. Fed. R. Civ. P.  
6 12(h)(3); CSIBI v. Fustos, 670 F.2d 134, 136 n.3 (9th Cir. 1982) (citing City of Kenosha v.  
7 Bruno, 412 U.S. 507, 511-12 (1973)). Federal subject matter jurisdiction must always be  
8 affirmatively alleged. Fed R. Civ. P. 8(a); Stock West, Inc., v. Confederated Tribes of the  
9 Colville Reservation, 873 F.2d 1221, 1225 (9th Cir. 1989).

10 A federal court may only grant a petition for writ of habeas corpus if the petitioner can  
11 show that "he is in custody in violation of the Constitution . . . ." 28 U.S.C. § 2254(a). A habeas  
12 corpus petition is the correct method for a prisoner to challenge the "legality or duration" of his  
13 confinement. Badea v. Cox, 931 F.2d 573, 574 (9th Cir. 1991) (quoting Preiser v. Rodriguez,  
14 411 U.S. 475, 485 (1973)); Advisory Committee Notes to Rule 1 of the Rules Governing Section  
15 2254 Cases. In contrast, a civil rights action pursuant to 42 U.S.C. § 1983 is the proper method  
16 for a prisoner to challenge the conditions of that confinement. McCarthy v. Bronson, 500 U.S.  
17 136, 141-42 (1991); Preiser, 411 U.S. at 499; Badea, 931 F.2d at 574; Advisory Committee  
18 Notes to Rule 1 of the Rules Governing Section 2254 Cases.

19 In this case, Petitioner claims that hospital staff used excessive and unnecessary force to  
20 move him into the observational section of Unit 1 of Coalinga State Hospital. (Pet. at 3-4).<sup>1</sup>  
21 Petitioner does not challenge his underlying civil commitment. Petitioner is challenging the  
22 conditions of his confinement, not the fact or duration of that confinement. Therefore,  
23 Petitioner's claims are not cognizable grounds for federal habeas corpus relief and must be  
24 dismissed. Should Petitioner wish to pursue his claims, he must do so by way of a civil rights  
25 complaint. The Court expresses no opinion as to the merits of such a civil rights complaint.  
26 Moreover, Petitioner admits that he has filed two related civil rights complaints in this Court.  
27 (Pet. at 6).

---

28 <sup>1</sup> Citations to page numbers in Petition refer to the ECF page numbers.

1 As it does not appear possible that the deficiencies identified herein can be cured by  
2 amending the complaint, Petitioner is not entitled to leave to amend prior to dismissal of the  
3 entire action. See Lopez v. Smith, 203 F.3d 1122, 1126, 1131 (9th Cir. 2000) (en banc).

4 **II.**

5 **CERTIFICATE OF APPEALABILITY**

6  
7 A state prisoner seeking a writ of habeas corpus has no absolute entitlement to  
8 appeal a district court's denial of his petition, and an appeal is only allowed in certain  
9 circumstances. Miller-El v. Cockrell, 537 U.S. 322, 335-36 (2003). The controlling statute in  
10 determining whether to issue a certificate of appealability is 28 U.S.C. § 2253, which provides as  
11 follows:

12 (a) In a habeas corpus proceeding or a proceeding under section  
13 2255 before a district judge, the final order shall be subject to  
14 review, on appeal, by the court of appeals for the circuit in which  
the proceeding is held.

15 (b) There shall be no right of appeal from a final order in a  
16 proceeding to test the validity of a warrant to remove to another  
17 district or place for commitment or trial a person charged with a  
criminal offense against the United States, or to test the validity of  
such person's detention pending removal proceedings.

18 (c) (1) Unless a circuit justice or judge issues a certificate of  
19 appealability, an appeal may not be taken to the court of  
appeals from—

20 (A) the final order in a habeas corpus proceeding in which  
the detention complained of arises out of process issued by  
21 a State court; or

22 (B) the final order in a proceeding under section 2255.

23 (2) A certificate of appealability may issue under paragraph (1)  
24 only if the applicant has made a substantial showing of the  
denial of a constitutional right.

25 (3) The certificate of appealability under paragraph (1) shall  
26 indicate which specific issue or issues satisfy the showing  
required by paragraph (2).

27 If a court denies a petitioner's petition, the court may only issue a certificate of  
28 appealability "if jurists of reason could disagree with the district court's resolution of his

1 constitutional claims or that jurists could conclude the issues presented are adequate to deserve  
2 encouragement to proceed further.” Miller-El, 537 U.S. at 327; Slack v. McDaniel, 529 U.S. 473,  
3 484 (2000). While the petitioner is not required to prove the merits of his case, he must  
4 demonstrate “something more than the absence of frivolity or the existence of mere good faith on  
5 his . . . part.” Miller-El, 537 U.S. at 338.

6 In the present case, the Court finds that reasonable jurists would not find the Court’s  
7 determination that Petitioner is not entitled to federal habeas corpus relief debatable, wrong, or  
8 deserving of encouragement to proceed further. Petitioner has not made the required substantial  
9 showing of the denial of a constitutional right. Accordingly, the Court hereby DECLINES to  
10 issue a certificate of appealability.

11 **III.**  
12 **ORDER**

13  
14 Accordingly, IT IS HEREBY ORDERED that:

- 15 1. The petition for writ of habeas corpus is DISMISSED;  
16 2. The Clerk of Court is DIRECTED to terminate the case; and  
17 3. The Court DECLINES to issue a certificate of appealability.

18  
19 IT IS SO ORDERED.

20 Dated: November 12, 2014

21   
22 UNITED STATES MAGISTRATE JUDGE