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

VANCE JOE BRADSHAW,	)	Case No.: 1:14-cv-01661-JLT
	)	
Petitioner,	)	FINDINGS AND RECOMMENDATIONS TO
	)	DISMISS PETITION FOR LACK OF HABEAS
v.	)	JURISDICTION (Doc. 1)
	)	
FRESNO COUNTY SHERIFF,	)	ORDER DIRECTING OBJECTIONS TO BE FILED
	)	WITHIN TWENTY-ONE DAYS
Respondent.	)	
	)	ORDERING DIRECTING CLERK OF THE
	)	COURT TO ASSIGN DISTRICT JUDGE TO CASE

Petitioner is a state prisoner proceeding in propria persona with a petition for writ of habeas corpus pursuant to 28 U.S.C. § 2254.

The instant petition was filed on October 20, 2014. In that petition, Petitioner alleges that he is in custody of Fresno County Sheriff and incarcerated at the Fresno County Jail, serving a sentence of two years. However, Petitioner does not challenge either his conviction or sentence. Instead, as grounds for relief, Petitioner alleges that his federal constitutional rights are being violated under, inter alia, the Americans with Disabilities Act, i.e., that Petitioner has certain medical conditions that are not being adequately addressed by Respondent. (Doc. 1).

**DISCUSSION**

Rule 4 of the Rules Governing § 2254 Cases requires the Court to make a preliminary review of

1 each petition for writ of habeas corpus. The Court must dismiss a petition "[i]f it plainly appears from  
2 the face of the petition . . . that the petitioner is not entitled to relief." Rule 4 of the Rules Governing  
3 2254 Cases; see also Hendricks v. Vasquez, 908 F.2d 490 (9th Cir.1990). A federal court may only  
4 grant a petition for writ of habeas corpus if the petitioner can show that "he is in custody in violation of  
5 the Constitution . . . ." 28 U.S.C. § 2254(a). A habeas corpus petition is the correct method for a  
6 prisoner to challenge the "legality or duration" of his confinement. Badea v. Cox, 931 F.2d 573, 574  
7 (9th Cir. 1991), quoting, Preiser v. Rodriguez, 411 U.S. 475, 485, 93 S. Ct. 1827 (1973); Ramirez v.  
8 Galaza, 334 F.3d 850, 859 (9<sup>th</sup> Cir. 2003)("[H]abeas jurisdiction is absent, and a § 1983 action proper,  
9 where a successful challenge to a prison condition will not necessarily shorten the prisoner's  
10 sentence"); Advisory Committee Notes to Rule 1 of the Rules Governing Section 2254 Cases.

11 The Ninth Circuit has also held that "[h]abeas corpus jurisdiction also exists when a petitioner  
12 seeks expungement of a disciplinary finding from his record if expungement is likely to accelerate the  
13 prisoner's eligibility for parole." Bostic v. Carlson, 884 F.2d 1267, 1269 (9<sup>th</sup> Cir. 1989); see also  
14 Docken v. Chase, 393 F. 3d 1024, 1031 (9<sup>th</sup> Cir. 2004)("[W]e understand Bostic's use of the term  
15 'likely' to identify claims with a sufficient nexus to the length of imprisonment so as to implicate, but  
16 not fall squarely within, the 'core' challenges identified by the Preiser Court.")

17 In contrast to a habeas corpus challenge to the length or duration of confinement, a civil rights  
18 action pursuant to 42 U.S.C. § 1983 is the proper method for a prisoner to challenge the conditions of  
19 confinement. McCarthy v. Bronson, 500 U.S. 136, 141-42 (1991); Preiser, 411 U.S. at 499; Badea,  
20 931 F.2d at 574; Advisory Committee Notes to Rule 1 of the Rules Governing Section 2254 Cases.

21 In this case, as mentioned, Petitioner alleges that his medical conditions are not being  
22 adequately addressed by Respondent. Petitioner does not appear to challenge either the fact or  
23 duration of his confinement. Petitioner is thus challenging the conditions of his confinement, not the  
24 fact or duration of that confinement. Indeed, Petitioner requests forms and assistance related to  
25 making a civil rights claim. However, this Court's jurisdiction is limited strictly to issues related to  
26 the fact of Petitioner's confinement, not its conditions. Therefore, Petitioner is not entitled to habeas  
27 corpus relief, and this petition must be dismissed. **Should Petitioner wish to pursue his claims,**  
28 **Petitioner must do so by way of a civil rights complaint pursuant to 42 U.S.C. § 1983.**

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**ORDER**

Accordingly, the Clerk of the Court is HEREBY DIRECTED to assign a United States District Judge to this case.

**RECOMMENDATION**

Accordingly, the Court HEREBY RECOMMENDS that the habeas corpus petition be DISMISSED for Petitioner’s failure to state any cognizable federal habeas claims.

This Findings and Recommendation is submitted to the United States District Court Judge assigned to this case, pursuant to the provisions of 28 U.S.C. § 636 (b)(1)(B) and Rule 304 of the Local Rules of Practice for the United States District Court, Eastern District of California. Within twenty-one (21) days after being served with a copy, any party may file written objections with the court and serve a copy on all parties. Such a document should be captioned “Objections to Magistrate Judge’s Findings and Recommendation.” Replies to the objections shall be served and filed within ten (10) court days (plus three days if served by mail) after service of the objections. The Court will then review the Magistrate Judge’s ruling pursuant to 28 U.S.C. § 636 (b)(1)(C). The parties are advised that failure to file objections within the specified time may waive the right to appeal the District Court’s order. Martinez v. Ylst, 951 F.2d 1153 (9<sup>th</sup> Cir. 1991).

IT IS SO ORDERED.

Dated: November 5, 2014

/s/ Jennifer L. Thurston  
UNITED STATES MAGISTRATE JUDGE