



1 (9th Cir. 1991), *quoting*, Preiser v. Rodriguez, 411 U.S. 475, 485, 93 S. Ct. 1827 (1973); Ramirez v.  
2 Galaza, 334 F.3d 850, 859 (9<sup>th</sup> Cir. 2003)(“[H]abeas jurisdiction is absent, and a § 1983 action proper,  
3 where a successful challenge to a prison condition will not necessarily shorten the prisoner’s  
4 sentence”); Advisory Committee Notes to Rule 1 of the Rules Governing Section 2254 Cases.

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

11 In contrast to a habeas corpus challenge to the length or duration of confinement, a civil rights  
12 action pursuant to 42 U.S.C. § 1983 is the proper method for a prisoner to challenge the conditions of  
13 confinement. McCarthy v. Bronson, 500 U.S. 136, 141-42 (1991); Preiser, 411 U.S. at 499; Badea,  
14 931 F.2d at 574; Advisory Committee Notes to Rule 1 of the Rules Governing Section 2254 Cases.

15 In this case, Petitioner does not challenge his 2011 conviction in the Superior Court. Rather,  
16 Petitioner makes a series of allegations related to the conditions of his confinement as follows: (1)  
17 Petitioner was harassed and assaulted during pre-trial detention; (2) he was the subject of “cruel and  
18 unusual punishment” in a prison hospital; (3) he was a victim of excessive force and harassment by  
19 police; (4) he was “validated” as a terrorist and subjected to administrative segregation in prison; (5) he  
20 was assault and insulted; (6) Petitioner was deprived of personal property in prison; (7) Petitioner was  
21 “obstructed from court”; (7) Petitioner was illegally “exploited and interrogated”; (8) he was sexually  
22 harassed; (9) Petitioner was assaulted with a deadly weapon; and (10) he was denied access to the  
23 prison law library. (Doc. 1, pp. 19-20).

24 Petitioner is thus challenging the conditions of his confinement, not the fact or duration of that  
25 confinement. No relief requested by Petitioner in his petition would affect the fact or duration of  
26 Petitioner’s sentence. Therefore, Petitioner is not entitled to habeas corpus relief, and this petition must  
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28

1 be dismissed.<sup>1</sup> Should Petitioner wish to pursue his claims, Petitioner must do so by way of a civil  
2 rights complaint pursuant to 42 U.S.C. § 1983.

3 **ORDER**

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

6 **RECOMMENDATION**

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

9 This Findings and Recommendation is submitted to the United States District Court Judge  
10 assigned to this case, pursuant to the provisions of 28 U.S.C. § 636 (b)(1)(B) and Rule 304 of the Local  
11 Rules of Practice for the United States District Court, Eastern District of California. **Within 21 days**  
12 after being served with a copy, any party may file written objections with the court and serve a copy on  
13 all parties. Such a document should be captioned "Objections to Magistrate Judge's Findings and  
14 Recommendation." Replies to the objections shall be served and filed **within 10 court days** after  
15 service of the objections. The Court will then review the Magistrate Judge's ruling pursuant to 28  
16 U.S.C. § 636 (b)(1)(C). The parties are advised that failure to file objections within the specified time  
17 may waive the right to appeal the District Court's order. Martinez v. Ylst, 951 F.2d 1153 (9<sup>th</sup> Cir.  
18 1991).

19  
20 **IT IS SO ORDERED.**

21 Dated: **August 6, 2015**

22 **/s/ Jennifer L. Thurston**  
23 **UNITED STATES MAGISTRATE JUDGE**

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27 <sup>1</sup> The Court is confident that Petitioner, who is a frequent filer in this Court, is well aware of the requirements of habeas  
28 corpus petitions as distinct from those for filing civil rights complaints. Indeed, Petitioner has a pending habeas petition,  
case no. 1:13-cv-01758-LJO-JLT, which itself is a combination of two previously filed habeas petitions, challenging his  
2011 conviction. In this Court, Petitioner has filed approximately 20 habeas petitions, many of which have been dismissed  
for challenging prison conditions rather than the fact or duration of his confinement. Moreover, he has filed than 25 cases  
challenging the conditions of his confinement in this Court.