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

ARCHIE CRANFORD,)	Case No.: 1:15-cv-01712-JLT
)	
Petitioner,)	FINDINGS AND RECOMMENDATIONS TO
)	DISMISS PETITION FOR LACK OF HABEAS
v.)	JURISDICTION (Doc. 1)
)	
RENEE MEDINA,)	ORDER DIRECTING OBJECTIONS TO BE FILED
)	WITHIN TWENTY-ONE DAYS
Respondent.)	
)	ORDERING DIRECTING CLERK OF THE
)	COURT TO ASSIGN DISTRICT JUDGE TO CASE

Petitioner alleges that he is in custody of Coalinga State Hospital, and detained there indefinitely as a sexually violent predator. (Doc. 1, p. 2). He does not challenge the fact of his detention. Rather, Petitioner alleges that, following an assault upon him while in custody, he received inadequate medical care and suffered injuries as a result thereof. (Doc. 1, pp. 4-5). Because the petition fails to invoke habeas jurisdiction, the Court recommends it be **DISMISSED**.

I. DISCUSSION

Rule 4 of the Rules Governing § 2254 Cases requires the Court to make a preliminary review of each petition for writ of habeas corpus. The Court must dismiss a petition "[i]f it plainly appears from the face of the petition . . . that the petitioner is not entitled to relief." Rule 4 of the Rules Governing 2254 Cases; see also *Hendricks v. Vasquez*, 908 F.2d 490 (9th Cir.1990). A federal court may only grant a petition for writ of habeas corpus if the petitioner can show that "he is in custody in violation of

1 the Constitution" 28 U.S.C. § 2254(a). A habeas corpus petition is the correct method for a
2 prisoner to challenge the "legality or 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 (1973); Ramirez v. Galaza, 334 F.3d
4 850, 859 (9th Cir. 2003)("[H]abeas jurisdiction is absent, and a § 1983 action proper, where a successful
5 challenge to a prison condition will not necessarily shorten the prisoner's sentence"); Advisory
6 Committee Notes to Rule 1 of the Rules Governing Section 2254 Cases.

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

13 In contrast to a habeas corpus challenge to the length or duration of confinement, a civil rights
14 action pursuant to 42 U.S.C. § 1983 is the proper method for a prisoner to challenge the conditions of
15 confinement. McCarthy v. Bronson, 500 U.S. 136, 141-42 (1991); Preiser, 411 U.S. at 499; Badea,
16 931 F.2d at 574; Advisory Committee Notes to Rule 1 of the Rules Governing Section 2254 Cases.

17 In this case, as mentioned, Petitioner alleges the he received inadequate medical care at the
18 state hospital following an assault upon him four years in the past. Petitioner is thus challenging the
19 conditions of his confinement, not the fact or duration of that confinement. Therefore, Petitioner is not
20 entitled to habeas corpus relief, and this petition must be dismissed. Should Petitioner wish to pursue
21 his claims, Petitioner must do so by way of a civil rights complaint pursuant to 42 U.S.C. § 1983.

22 ORDER

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

25 RECOMMENDATION

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

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

11
12 IT IS SO ORDERED.

13 Dated: November 17, 2015

/s/ Jennifer L. Thurston
14 UNITED STATES MAGISTRATE JUDGE