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

AARON L. APODACA,
Plaintiff,
v.
CAPTAIN S. SPEIDELL, *et al.*,
Defendants.

Case No. 1:18-cv-00083-EPG
**ORDER REQUESTING MORE
INFORMATION CONCERNING
PLAINTIFF’S PRISON SENTENCE**
(ECF No. 1)
TWENTY-ONE DAY DEADLINE

Aaron L. Apodaca (“Plaintiff”) is proceeding *pro se* and *in forma pauperis* with this civil rights action pursuant to 42 U.S.C. § 1983 (§ 1983). Plaintiff filed the Complaint commencing this action on January 18, 2018. (ECF No. 1). Plaintiff challenges the disciplinary proceedings against him that resulted in the loss of good-time credits.

The Court requires additional information about Plaintiff’s sentence in order to evaluate whether Plaintiff’s case can go forward as a § 1983 case. In particular, the Court needs to determine if success on Plaintiff’s claim would necessarily lead to his immediate or earlier release from confinement.

Depending on the nature of the criminal sentence Plaintiff is serving, challenges to disciplinary proceedings that result in the loss of good time credits must be filed as a writ of habeas corpus (subject to exhaustion and other requirements for such petitions), rather than a § 1983 action. In *Nettles v. Grounds*, the U.S. Court of Appeals for the Ninth Circuit summarized a long line of U.S. Supreme Court precedent discussing the subject matter dividing lines between

1 petitions for writs of habeas corpus and § 1983 civil rights lawsuits. 830 F.3d 922, 927-30 (9th
2 Cir. 2016), *cert. denied*, 137 S. Ct. 645, 196 L. Ed. 2d 542 (2017). The Ninth Circuit concluded
3 in *Nettles* that “habeas is available only for state prisoner claims that lie at the core of habeas (and
4 is the exclusive remedy for such claims), while § 1983 is the exclusive remedy for state prisoner
5 claims that do not lie at the core of habeas.” *Id.* at 930-31 (citations omitted). A claim lies at the
6 “core of habeas corpus” where “success in that action would necessarily demonstrate the
7 invalidity of confinement or its duration.” *Id.* at 929 (quoting *Wilkinson v. Dotson*, 544 U.S. 74,
8 82, 125 S.Ct. 1242, 161 L.Ed.2d 253 (2005)). Accordingly, challenges to the validity of prison
9 disciplinary proceedings resulting in the loss of good-time credits lie at the “core of habeas
10 corpus” and, therefore outside of the scope of § 1983, where the restoration of the good-time
11 credits would necessarily affect the length of time to be served. *Id.* at 927-29.

12 Here, Plaintiff has brought § 1983 case requesting that his disciplinary infractions for
13 refusing to take a “medical vest” and associated loss of good-time credits be invalidated. If
14 Plaintiff’s good-time credits are restored, that may necessarily affect the length of his sentence,
15 and thus only be cognizable through a habeas corpus petition.

16 However, it is possible that restoration of the good time credits may not necessarily result
17 in a speedier release. In *Nettles*, for example, the Ninth Circuit held that the prisoner’s claim was
18 outside of the “core of habeas” and, therefore, properly brought as a § 1983 case, where the
19 prisoner was serving an indeterminate life sentence. *See id.* at 934–35.

20 Because Plaintiff has not included facts concerning the nature of the criminal sentence he
21 is presently serving, the Court requests additional information to evaluate his claim.

22 Accordingly, the Court ORDERS as follows:

23 Within 21 days from the date of this order, Plaintiff shall file a response indicating the
24 nature of his sentence, including whether it is for life or less than life, and whether it is
25 determinate or indeterminate. Plaintiff may also provide any additional information that would
26 explain whether the restoration of good-time credits would necessarily affect the length of his
27 sentence.

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Failure to provide the requested information, as requested, may result in dismissal of this case.

IT IS SO ORDERED.

Dated: February 7, 2018

/s/ Eric P. Gray
UNITED STATES MAGISTRATE JUDGE