



1 relief. Wilkinson v. Dotson, 544 U.S. 74, 78 (2005) (“[A] prison in state custody cannot use a §  
2 1983 action to challenge the fact or duration of his confinement. He must seek federal habeas  
3 corpus relief (or appropriate state relief) instead.”); see also Heck v. Humphrey, 512 U.S. 477, 486-  
4 87 (1994) (stating that a claim for damages for allegedly unconstitutional conviction or  
5 imprisonment is not cognizable under § 1983 unless “the conviction or sentence has been reversed  
6 on direct appeal, expunged by executive order, declared invalid by a state tribunal authorized to  
7 make such determination, or called into question by a federal court’s issuance of a writ of habeas  
8 corpus, 28 U.S.C. § 2254.”). Therefore, Plaintiff’s motion to compel trial in 10 days must be  
9 denied.

## 10 **II. Plaintiff’s Motion to Compel Stay Abeyance**

11 On May 31, 2019, Plaintiff filed a motion to compel stay abeyance. (ECF No. 35.)  
12 However, both Federal Rule of Civil Procedure 11(a) and this Court’s Local Rule 131(b) require  
13 that all pleadings and non-evidentiary documents must be signed by the filing party, if the filing  
14 party is unrepresented by counsel. Since Plaintiff is unrepresented by counsel and failed to sign  
15 his motion to compel stay abeyance, the Court will strike Plaintiff’s motion to compel to stay  
16 abeyance from the record.

## 17 **III. Order**

18 Accordingly, it is HEREBY ORDERED that:

- 19 1. Plaintiff’s motion to compel trial in 10 days, (ECF No. 34), is DENIED; and
- 20 2. Plaintiff’s unsigned motion to compel stay abeyance, (ECF No. 35), is STRICKEN  
21 from the record for lack of Plaintiff’s signature.

22  
23 IT IS SO ORDERED.

24 Dated: July 2, 2019

25 /s/ Barbara A. McAuliffe  
26 UNITED STATES MAGISTRATE JUDGE