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UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF CALIFORNIA

ERIC RICHARD ELESON,  
Petitioner,  
v.  
JOE A. LIZARRAGA, et al.,  
Respondents.

No. 2:13-cv-2363-EFB P

ORDER

Petitioner is a state prisoner proceeding without counsel on a petition for a writ of habeas corpus pursuant to 28 U.S.C. § 2254.<sup>1</sup> The case was referred to this court by Local Rule 302 pursuant to 28 U.S.C. § 636(b)(1) and is before the undersigned pursuant to petitioner’s consent. *See* 28 U.S.C. § 636; *see also* E.D. Cal. Local Rules, Appx. A, at (k)(4).

Petitioner alleges that prison officials have improperly restricted his outgoing mail. The court has reviewed the petition as required by Rule 4 of the Rules Governing Section 2254 Proceedings, and finds that it must be summarily dismissed. *See* Rule 4, Rules Governing § 2254 Cases (requiring summary dismissal of habeas petition if, upon initial review by a judge, it plainly appears “that the petitioner is not entitled to relief in the district court”).

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<sup>1</sup> Petitioner has paid the filing fee.

1 In federal court, there are two main avenues to relief on complaints related to one's  
2 imprisonment – a petition for habeas corpus pursuant to 28 U.S.C. § 2254, and a civil rights  
3 complaint pursuant to 42 U.S.C. § 1983. Challenges to the validity of one's confinement or the  
4 duration of one's confinement are properly brought in a habeas action, whereas requests for relief  
5 turning on the circumstances of one's confinement are properly brought in a § 1983 action.  
6 *Muhammad v. Close*, 540 U.S. 749, 750 (2004) (citing *Preiser v. Rodriguez*, 411 U.S. 475, 500  
7 (1973)); *see also* 28 U.S.C. § 2254(a) (“[A] district court shall entertain an application for a writ  
8 of habeas corpus in behalf of a person in custody pursuant to the judgment of a State court only  
9 on the ground that he is in custody in violation of the Constitution or laws or treaties of the United  
10 States.”); Advisory Committee Notes to Rule 1 of the Rules Governing § 2254 Cases. Here,  
11 petitioner's claim does not sound in habeas because it does not concern the validity or duration of  
12 his confinement.

13 Accordingly, IT IS HEREBY ORDERED this action is dismissed without prejudice to  
14 filing a civil rights action pursuant to 42 U.S.C. § 1983 and the Clerk is directed to close the case.

15 Dated: February 6, 2014.

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17 EDMUND F. BRENNAN  
18 UNITED STATES MAGISTRATE JUDGE  
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