



1 2241. Rule 1(b), Rules Governing Section 2254 Cases. Under Rule 4, the court may dismiss a  
2 petition if it “plainly appears from the face of the petition and any attached exhibits that the  
3 petitioner is not entitled to relief in the district court . . . .” In addition Rule 2(c) requires that a  
4 petition specify the grounds for relief and the state the facts supporting each ground. Notice  
5 pleading is not sufficient; rather, the petition must state facts that point to a real possibility of  
6 constitutional error. Rule 4, 1976 Advisory Committee Notes. Allegations that are vague,  
7 conclusory, or “palpably incredible” are subject to summary dismissal. *Hendricks v. Vasquez*,  
8 908 F.2d 490, 491 (9th Cir. 1990).

9 Here, petitioner alleges that the Bureau of Prisons (BOP) miscalculated his release date by  
10 failing to credit him with time he spent in custody from June 1, 2007 to June 2, 2008. ECF No.  
11 37. Though he purports to submit with his motion “papers” that prove the miscalculation, no  
12 such papers accompany the motion.

13 After a district court sentences a federal offender, the Attorney General, through the  
14 Bureau of Prisons, has the responsibility for administering the sentence. *United States v. Wilson*,  
15 503 U.S. 329, 335 (1992) (citing 18 U.S.C. § 3621(a)). This includes the responsibility for  
16 computing time credits and determining a sentence termination date. *Id.* at 333-335. Once a  
17 prisoner commences his federal sentence and exhausts his administrative remedies, he can  
18 petition for judicial review of the Attorney General’s computation of his sentence. *Wilson*, 503  
19 U.S. at 335-36; *United States v. Checchini*, 967 F.2d 348, 350 (9th Cir. 1992). The Bureau of  
20 Prisons has established an administrative remedy by which an inmate in a federal prison may seek  
21 review of any aspect of his or her confinement. 28 C.F.R. § 542.10. The purpose of the  
22 exhaustion requirement is to allow the administrative agency to develop a factual record, to  
23 correct its own errors, and to promote judicial efficiency. *Parisi v. Davidson*, 405 U.S. 34, 37  
24 (1972). After exhausting, a petitioner filing a petition for writ of habeas corpus under 28 U.S.C.  
25 § 2241 must file the petition within the judicial district of the petitioner’s custodian. *See Brown v.*  
26 *United States*, 610 F.2d 672, 677 (9th Cir. 1990) (“A petition under § 2241 must be addressed to  
27 the district court which has jurisdiction over [petitioner] or his custodian”).

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1 Here, the instant petition must be dismissed with leave to amend pursuant to Rule 4 of the  
2 Rules Governing Section 2254 Cases. Petitioner's grounds for relief are not clear, as he has not  
3 attached any documentation showing why (as he contends) his sentence has been miscalculated.  
4 Nor does he allege that he has exhausted his federal administrative remedies before bringing the  
5 instant request. *See Martinez v. Roberts*, 804 F.2d 570, 571 (9th Cir. 1986) (per curiam). In  
6 addition, venue may not be proper in this district, as petitioner is incarcerated at the United States  
7 Penitentiary, Victorville, in Adelanto, California, which lies in the Central District of California.  
8 Petitioner is granted leave to file an amended petition correcting these deficiencies, using this  
9 court's form petition for writ of habeas by a person in federal custody under 28 U.S.C. § 2241.

10 In accordance with the above, IT IS HEREBY ORDERED that:

11 1. The Clerk shall open this as a new civil action pursuant to 28 U.S.C. § 2241 and  
12 directly assign the case to District Judge Troy L. Nunley and Magistrate Judge Edmund F.  
13 Brennan.

14 2. All future filings shall be made in that civil action: No. 2:14-cv-267-TLN-EFB P.

15 3. The Clerk is directed to file a copy of the filing found at ECF No. 37 in 2:07-cr-269-  
16 TLN and this order in the new civil action and shall terminate ECF No. 37 in the criminal case.

17 4. Petitioner has 30 days from the date of this order, to submit an affidavit in support of  
18 his request to proceed in forma pauperis or the appropriate filing fee.

19 5. Petitioner has 30 days from the date of this order to file an amended petition for a writ  
20 of habeas corpus curing the deficiencies identified in this order. The petition must bear the  
21 docket number assigned to this action and be styled, "First Amended Petition."

22 6. The Clerk of the Court is directed to send petitioner (a) a copy of the in forma pauperis  
23 form used by this district, and (b) a copy of the form petition for writ of habeas by a person in  
24 federal custody under 28 U.S.C. § 2241 used by this district.

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7. Petitioner's failure to comply with this order will result in a recommendation that this action be dismissed.

DATED: January 29, 2014.

  
EDMUND F. BRENNAN  
UNITED STATES MAGISTRATE JUDGE