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UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

JERRY LEE COOPER,
Petitioner,
v.
WARDEN J PRICE, et al.,
Respondents.

No. 2:14-cv-0664 CKD P
ORDER AND FINDINGS AND
RECOMMENDATIONS

Petitioner, a state prisoner proceeding pro se, has filed a petition for a writ of habeas corpus pursuant to 28 U.S.C. § 2254. Petitioner alleges that overcrowded conditions in the state’s prisons have resulted in violations of his constitutional rights. He seeks relief in the form of a “prison overcrowding reduction plan consistent with the principles of Equal Protection.” (ECF No. 1.)

Petitioner’s challenge to his conditions of confinement is properly the subject of an action brought pursuant to 42 U.S.C. § 1983. As the United States Supreme Court has stated:

Federal law opens two main avenues to relief on complaints related to imprisonment: a petition for habeas corpus, 28 U.S.C. § 2254, and a complaint under the Civil Rights Act of 1871, Rev. Stat. § 1979, as amended, 42 U.S.C. § 1983. Challenges to the validity of any confinement or to particulars affecting its duration are the province of habeas corpus, Preiser v. Rodriguez, 411 U.S. 475, 500

1 (1973); requests for relief turning on circumstances of confinement
2 may be presented in a § 1983 action. . . . Federal petitions for
3 habeas corpus may be granted only after other avenues of relief
4 have been exhausted. 28 U.S.C. § 2254(b)(1)(A). [Citation.]
5 Prisoners suing under § 1983, in contrast, generally face a
6 substantially lower gate, even with the requirement of the Prison
7 Litigation Reform Act of 1995 that administrative opportunities be
8 exhausted first. 42 U.S.C. § 1997e(a).

9 Muhammad v. Close, 540 U.S.749, 750-751 (2004) (per curiam).

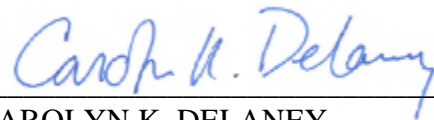
10 Rule 4 of the Rules Governing Habeas Corpus Cases Under Section 2254 provides for
11 summary dismissal of a habeas petition “[i]f it plainly appears from the face of the petition and
12 any exhibits annexed to it that the petitioner is not entitled to relief in the district court.” In the
13 instant case, it is plain from the petition and appended exhibits that petitioner is not entitled to
14 federal habeas relief. Therefore, the petition should be summarily dismissed.¹

15 In accordance with the above, IT IS HEREBY ORDERED that the Clerk of Court assign a
16 district judge to this action.

17 IT IS HEREBY RECOMMENDED that the petition be dismissed pursuant to Rule 4 of
18 the Rules Governing Habeas Corpus Cases Under Section 2254.

19 These findings and recommendations are submitted to the United States District Judge
20 assigned to the case, pursuant to the provisions of 28 U.S.C. § 636(b)(1). Within fourteen days
21 after being served with these findings and recommendations, petitioner may file written
22 objections. Such a document should be captioned “Objections to Magistrate Judge’s Findings
23 and Recommendations.” Petitioner is advised that failure to file objections within the specified
24 time may waive the right to appeal the District Court’s order. Martinez v. Ylst, 951 F.2d 1153
(9th Cir. 1991).

25 Dated: March 21, 2014



26 CAROLYN K. DELANEY
27 UNITED STATES MAGISTRATE JUDGE

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¹ Petitioner may re-file the instant claims in an action pursuant to section 1983. Petitioner is advised that the statutory filing fee for such an action is \$350.00. 28 U.S.C. §§ 1914(a), 1915(b)(1). A section 1983 inmate plaintiff proceeding in forma pauperis is obligated to pay this fee in monthly installments from his or her prison trust account.