



1 pursuant to a motion by the respondent; a dismissal after the answer and petition are considered;  
2 or a dismissal after consideration of the pleadings and an expanded record.”

### 3 **THE PETITION**

4 Petitioner commenced this action by filing a petition for writ of habeas corpus pursuant to  
5 28 U.S.C. § 2241. Therein, petitioner complains that Chaplain Beck placed religious sanctions on  
6 him that continue to date. Specifically, petitioner claims that he is not allowed to lead the Sunni  
7 Community in prayer or teach religious classes. In terms of relief, petitioner requests restoration  
8 of his rights to free exercise of religion. (Pet. at 1-9.)

### 9 **DISCUSSION**

10 Petitioner’s application for a writ of habeas corpus fails to state a cognizable claim for  
11 federal habeas corpus relief. Petitioner is advised that a habeas corpus petition under 28 U.S.C. §  
12 2241 is the proper vehicle for a federal prisoner seeking to challenge the execution of his  
13 sentence. See Hernandez v. Campbell, 204 F.3d 861, 864 (9th Cir. 2000). Where, as here,  
14 petitioner seeks to challenge the conditions of his confinement he must file a civil rights  
15 complaint rather than a habeas corpus petition. See Badea v. Cox, 931 F.2d 573, 574 (9th Cir.  
16 1991). In addition, because petitioner challenges actions allegedly taken by federal employees,  
17 petitioner should file any civil rights action pursuant to Bivens v. Six Unknown Named Agents,  
18 403 U.S. 388 (1971) and not 42 U.S.C. § 1983.

### 19 **CONCLUSION**

20 Accordingly, IT IS HEREBY RECOMMENDED that petitioner’s application for writ of  
21 habeas corpus be dismissed without prejudice to petitioner’s proper pursuit of a civil rights action.

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

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In any objections he elects to file, petitioner may address whether a certificate of appealability should issue in the event he files an appeal of the judgment in this case. See Rule 11, Federal Rules Governing Section 2254 Cases (the district court must issue or deny a certificate of appealability when it enters a final order adverse to the applicant).

Dated: October 9, 2015

  
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DALE A. DROZD  
UNITED STATES MAGISTRATE JUDGE

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