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UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

10 VITALY V. KONONOV,
11 Petitioner,
12 v.
13 SACRAMENTO COUNTY SHERIFF
14 DEPARMENT,
15 Respondent.

No. 2:15-cv-436-EFB P

ORDER

16 Petitioner is a state prisoner without counsel seeking a writ of habeas corpus pursuant to
17 28 U.S.C. § 2254.¹ The court has reviewed the petition as required by Rule 4 of the Rules
18 Governing Section 2254 Proceedings, and finds that it must be summarily dismissed. *See* Rule 4,
19 Rules Governing § 2254 Cases (requiring summary dismissal of habeas petition if, upon initial
20 review by a judge, it plainly appears “that the petitioner is not entitled to relief in the district
21 court”).

22 Federal courts offer two main avenues to relief on complaints related to one’s
23 imprisonment – a petition for habeas corpus pursuant to 28 U.S.C. § 2254, and a civil rights
24 complaint pursuant to 42 U.S.C. § 1983. Challenges to the validity of one’s confinement or the

26 ¹ Petitioner’s application to proceed in forma pauperis (ECF No. 7) is granted. *See* 28
27 U.S.C. § 1915(a). This proceeding was referred to this court by Local Rule 302 pursuant to 28
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).

1 duration of one's confinement are properly brought in a habeas action, whereas requests for relief
2 turning on the circumstances of one's confinement are properly brought in a § 1983 action.
3 *Muhammad v. Close*, 540 U.S. 749, 750 (2004) (citing *Preiser v. Rodriguez*, 411 U.S. 475, 500
4 (1973)); *see also* 28 U.S.C. § 2254(a) ("[A] district court shall entertain an application for a writ
5 of habeas corpus in behalf of a person in custody pursuant to the judgment of a State court only
6 on the ground that he is in custody in violation of the Constitution or laws or treaties of the United
7 States."); Advisory Committee Notes to Rule 1 of the Rules Governing § 2254 Cases.

8 Petitioner's claims for relief concern allegations of an instance of excessive force,
9 administrative appeals, mail, and requests for medical attention that have gone unanswered, and
10 denial of food, showers, yard time, and telephone access. *See* ECF No. 1. Petitioner's claims
11 concern the conditions of his confinement. They do not sound in habeas because they do not
12 concern the validity or duration of his confinement.

13 Accordingly, IT IS HEREBY ORDERED that petitioner's application to proceed in forma
14 pauperis (ECF No. 7) is granted and this action is dismissed without prejudice to filing a civil
15 rights action pursuant to 42 U.S.C. § 1983. The Clerk is directed to close the case.

16 Dated: April 29, 2015.

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18 EDMUND F. BRENNAN
19 UNITED STATES MAGISTRATE JUDGE
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