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8 UNITED STATES DISTRICT COURT
9 FOR THE EASTERN DISTRICT OF CALIFORNIA
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11 RAYMOND D. JACKSON, SR.,

No. 2:15-cv-0573 GEB AC P

12 Petitioner,

13 v.

ORDER and

14 ROBERT FOX, Warden,

ORDER TO SHOW CAUSE

15 Respondent.
16

17 Petitioner is a state prisoner proceeding pro se with an amended petition for writ of habeas
18 corpus pursuant to 28 U.S.C. § 2254. See ECF No. 9. Petitioner has paid the filing fee.
19 Petitioner challenges an October 30, 2013 disciplinary conviction for possession of a controlled
20 substance based on a search of petitioner's clothing conducted March 8, 2012. Petitioner also
21 challenges the conditions of his confinement during the interval between the search and
22 conviction, and as imposed as a result of the conviction.¹

23 In his original petition, petitioner stated that he is serving a sentence of "life plus 75
24 years." ECF No. 1 at 1. The amended petition states, incorrectly, that the length of petitioner's
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26 ¹ Although petitioner may not be able to pursue his challenge to the subject disciplinary
27 conviction, for the reasons stated herein, he may be able to pursue his conditions-of-confinement
28 claims in a separate civil rights action filed pursuant to 42 U.S.C. § 1983. The court will address
this possibility when it addresses petitioner's response to the order to show cause concerning this
court's habeas jurisdiction.

1 underlying sentence is not relevant to his disciplinary challenge.

2 The Ninth Circuit Court of Appeals recently clarified when a prison disciplinary challenge
3 can be brought in a federal habeas petition. In Nettles v. Grounds, 788 F.3d 992, 1001 (9th Cir.
4 May 28, 2015), the Court of Appeals held that federal habeas relief is available “only if success
5 on the claim would ‘necessarily spell speedier release’ from custody, which . . . would include
6 termination of custody, acceleration of the future date of release from custody, or reduction of the
7 level of custody.” Nettles, 788 F.3d at 1001 (quoting Skinner v. Switzer, 562 U.S. 521, 533-34 &
8 n.13 (2011)). The petitioner in Nettles was serving an indeterminate life sentence and had not
9 been found suitable for parole, despite passing his minimum eligible parole date (MEPD). The
10 Court of Appeals found that the district court lacked habeas jurisdiction over Nettles’ disciplinary
11 conviction because neither expungement of the conviction nor restoration of Nettles’ good-time
12 credits would “necessarily terminate Nettles’s custody, accelerate the future date of his release, or
13 reduce his level of custody.” Nettles, 788 F.3d at 1003. The court reasoned, “[w]ithout knowing
14 how many years Nettles will serve before the Board finds him suitable for parole or the length of
15 his base term, we cannot conclude that restoration of the lost good-time credits would necessarily
16 affect the duration of Nettles’ confinement if and when the Board finds him suitable for parole.”
17 Id. at 1004.

18 The present case appears to present similar circumstances. Accordingly, petitioner will be
19 directed to show cause why his challenge to his October 30, 2013 disciplinary conviction should
20 not be dismissed for lack of subject matter jurisdiction, pursuant to Nettles v. Grounds, 788 F.3d
21 992 (9th Cir. 2015). Petitioner should include an abstract of his 1981 conviction and sentence,
22 and an explanation of his standing concerning parole.

23 In addition, pending the court’s review of its jurisdiction to consider petitioner’s
24 disciplinary challenge, petitioner’s several miscellaneous motions – for discovery, an order to
25 show cause, an evidentiary hearing, appointment of counsel, and to fast track this case – will be
26 denied without prejudice.

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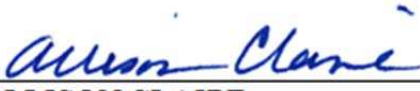
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1 For the foregoing reasons, IT IS HEREBY ORDERED that:

2 1. Plaintiff shall, within thirty days after the filing date of this order, file a response to the
3 court's order to show cause demonstrating why his amended petition should not be dismissed for
4 lack of subject matter jurisdiction, pursuant to Nettles v. Grounds, 788 F.3d 992 (9th Cir. 2015).

5 2. Plaintiff's motions for discovery, an order to show cause, an evidentiary hearing,
6 appointment of counsel, and to fast track this case, see ECF Nos. 2, 10 & 11, are denied without
7 prejudice.

8 DATED: September 25, 2015

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10 ALLISON CLAIRE
11 UNITED STATES MAGISTRATE JUDGE
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