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8	UNITED STATES DISTRICT COURT	
9	FOR THE EASTERN DISTRICT OF CALIFORNIA	
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11	WALTER CURRIE,	No. 2:15-cv-0900 GEB AC P
12	Petitioner,	
13	V.	FINDINGS AND RECOMMENDATIONS
14	MULE CREEK STATE PRISON	
15	WARDEN,	
16	Respondent.	
17		
18	Petitioner, a state prisoner proceeding pro se, has filed a petition for writ of habeas corpus	
19	pursuant to 28 U.S.C. § 2254. ECF No. 1. In his petition, petitioner alleges that as a mentally ill	
20	and openly gay inmate, he is wrongfully being denied single cell housing status in violation of his	
21	constitutional rights under the Eighth and Fourteenth Amendments. Id. at 5. Petitioner seeks	
22	declaratory and injunctive relief. Id. at 15, 19	9.
23	Petitioner's request for injunctive reli	ef regarding his cell status presents a challenge to the
24	conditions of petitioner's confinement, which	n may not be addressed in this habeas action. Habeas
25	jurisdiction exists only for petitioners challenging the legality or duration of their incarceration,	
26	not the conditions of confinement. Ramirez v. Galaza, 334 F.3d 850, 859 (9th Cir. 2003).	
27	Petitioner is advised that the proper mechanism for raising a federal challenge to conditions of	
28	confinement is through a civil rights action p	ursuant to 42 U.S.C. § 1983. <u>Badea v. Cox</u> , 931
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E 2d 573 574 (0th Cir. 1001) Here notitioner specifically states that "This Protition does not		
F.2d 573, 574 (9th Cir. 1991). Here, petitioner specifically states that "[his] petition does not		
concern [his] sentence or conviction;" rather, it concerns only "prison conditions" and his need		
for "single cell status." <u>See</u> ECF No. 1 at 1. Accordingly, it is recommended that the petition be		
dismissed without prejudice to petitioner's right to file a § 1983 civil rights complaint.		
<u>WARNING</u> : Petitioner is informed that upon filing a § 1983 civil rights complaint, he will		
be charged a \$350 filing fee. Petitioner is cautioned that this court has made no determination as		
to the merits of his potential § 1983 claims and has made no findings as to whether his claims		
would survive past the screening stage, should he elect to pursue a civil rights action.		
Petitioner is further advised that prior to filing a § 1983 civil rights action, he must first		
file an administrative grievance with the prison and complete the prison grievance process in		
order to exhaust his administrative remedies as required by the Prison Litigation Reform Act. 42		
U.S.C. § 1997(e)(a); McKinney v. Carey, 311 F.3d 1198 (9th Cir. 2002) (the PLRA requires that		
administrative remedies be exhausted prior to filing suit). See also Woodford v. Ngo, 548 U.S.		
81 (2006) (exhaustion requires that the prisoner complete the administrative review process in		
accordance with all applicable procedural rules). Petitioner may then seek relief in federal court		
by filing a § 1983 civil rights complaint.		
Accordingly, IT IS HEREBY RECOMMENDED that:		
1. Petitioner's application for writ of habeas corpus (ECF No. 1) be dismissed without		
prejudice to refilling it as a § 1983 civil rights action; and		
2. The clerk of the court is directed to send petitioner a § 1983 civil rights complaint		
form and the accompanying directions.		
These findings and recommendations are submitted to the United States District Judge		
assigned to the case, pursuant to the provisions of 28 U.S.C. § 636(b)(l). Within twentyone days		
after being served with these findings and recommendations, plaintiff may file written objections		
with the court. Such a document should be captioned "Objections to Magistrate Judge's Findings		
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1	and Recommendations." Plaintiff is advised that failure to file objections within the specified
2	time may waive the right to appeal the District Court's order. Martinez v. Ylst, 951 F.2d 1153
3	(9th Cir. 1991).
4	DATED: October 7, 2015
5	auss Clane
6	ALLISON CLAIRE UNITED STATES MAGISTRATE JUDGE
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