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UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF CALIFORNIA

OTIS LEE RODGERS,  
  
                                Petitioner,  
  
                v.  
  
THOMAS A. FERRARA,  
  
                                Respondent.

No. 2:15-cv-1298-EFB P

ORDER

Petitioner is a county prisoner without counsel seeking a writ of habeas corpus pursuant to 28 U.S.C. § 2254.<sup>1</sup> His six claims for relief relate to an order of extradition originating from an Ohio state court. *See* ECF No. 1 at 9-15.

Challenges to the validity of one’s confinement or the duration of one’s confinement are properly brought in a habeas action. *Muhammad v. Close*, 540 U.S. 749, 750 (2004) (citing *Preiser v. Rodriguez*, 411 U.S. 475, 500 (1973)); *see also* 28 U.S.C. § 2254(a) (“[A] district court shall entertain an application for a writ of habeas corpus in behalf of a person in custody pursuant to the judgment of a State court only on the ground that he is in custody in violation of the Constitution or laws or treaties of the United States.”); Advisory Committee Notes to Rule 1 of

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<sup>1</sup> This proceeding was referred to this court by Local Rule 302 pursuant to 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 the Rules Governing § 2254 Cases. It is well established that 28 U.S.C. § 2241 provides the  
2 proper jurisdictional basis for a habeas petition filed by a state prisoner who is not in custody  
3 “pursuant to the judgment of a State court,” 28 U.S.C. § 2254, but rather “in pre-trial detention or  
4 awaiting extradition.” *White v. Lambert*, 370 F.3d 1002, 1006 (9th Cir. 2004), *overruled on other*  
5 *grounds by Hayward v. Marshall*, 603 F.3d 546, 554 (9th Cir. 2010) (en banc).

6 Here, petitioner was in custody “awaiting extradition” at the time he filed the instant  
7 petition, which challenges the order of extradition itself. Although petitioner filed this action  
8 pursuant to 28 U.S.C. § 2254, he is not attacking the validity of a state court conviction and  
9 sentence imposed by the State of California. Therefore, it is § 2241 that provides the proper  
10 jurisdictional basis for his habeas petition.

11 Accordingly, IT IS HEREBY ORDERED that the petition for a writ of habeas corpus  
12 under 28 U.S.C. § 2254 is dismissed without prejudice to filing a petition for a writ of habeas  
13 corpus under 28 U.S.C. § 2241. The clerk shall terminate all pending motions as moot and close  
14 the case.

15 DATED: October 27, 2015.

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17 EDMUND F. BRENNAN  
18 UNITED STATES MAGISTRATE JUDGE  
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