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UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

COREI LEE SCHROEDER,
Petitioner,
v.
CDCR,
Respondent.

No. 2:15-cv-1362 CKD P

ORDER AND
FINDINGS AND RECOMMENDATIONS

Petitioner is a state prisoner proceeding pro se who has requested authority pursuant to 28 U.S.C. § 1915 to proceed in forma pauperis. This proceeding was referred to this court by Local Rule 302 pursuant to 28 U.S.C. § 636(b)(1).

Petitioner has submitted a declaration that makes the showing required by 28 U.S.C. § 1915(a). Accordingly, the request to proceed in forma pauperis will be granted.

Petitioner alleges that when he was transferred between institutions in November 2014, prison officials lost all his personal belongings and have not replaced them.

A habeas corpus petition is the correct method for a prisoner to challenge the legality or duration of his confinement. Badea v. Cox, 931 F.2d 573, 574 (9th Cir.1991) (quoting Preiser v. Rodriguez, 411 U.S. 475, 485 (1973)); Advisory Committee Notes to Habeas Rule 1, 1976

1 Adoption. In contrast, a civil rights action pursuant to 42 U.S.C. § 1983 is the proper method for
2 a prisoner to challenge the conditions of that confinement. McCarthy v. Bronson, 500 U.S. 136,
3 (1991); Preiser, 411 U.S. at 499; Badea, 931 F.2d at 574; Advisory Committee Notes to Habeas
4 Rule 1, 1976 Adoption. Here, as petitioner's property claim does not relate to or affect the
5 duration of his confinement, it is not properly brought within this federal habeas action and is
6 subject to dismissal.

7 Rule 4 of the Rules Governing Habeas Corpus Cases Under Section 2254 provides for
8 summary dismissal of a habeas petition "[i]f it plainly appears from the face of the petition and
9 any exhibits annexed to it that the petitioner is not entitled to relief in the district court." For the
10 foregoing reasons, and because it does not appear that the petition can be cured by amendment,
11 the petition will be summarily dismissed pursuant to Rule 4.

12 Accordingly, IT IS HEREBY ORDERED that:

- 13 1. Petitioner's request for leave to proceed in forma pauperis (ECF No. 2) is granted; and
- 14 2. The Clerk of Court is directed to assign a district judge to this action.

15 IT IS HEREBY RECOMMENDED that the petition be summarily dismissed pursuant to
16 Rule 4 of the Rules Governing Habeas Corpus Cases under Section 2254.

17 These findings and recommendations are submitted to the United States District Judge
18 assigned to the case, pursuant to the provisions of 28 U.S.C. § 636(b)(1). Within fourteen days
19 after being served with these findings and recommendations, any party may file written
20 objections with the court and serve a copy on all parties. Such a document should be captioned
21 "Objections to Magistrate Judge's Findings and Recommendations." Any response to the
22 objections shall be served and filed within fourteen days after service of the objections. The
23 parties are advised that failure to file objections within the specified time may waive the right to
24 appeal the District Court's order. Martinez v. Ylst, 951 F.2d 1153 (9th Cir. 1991).

25 Dated: July 8, 2015

26 
27 CAROLYN K. DELANEY
28 UNITED STATES MAGISTRATE JUDGE