

1 While federal courts have jurisdiction to hear § 2241 petitions brought by federal pretrial
2 detainees, courts should abstain from the exercise of that jurisdiction if the issues raised may be
3 resolved in the pending criminal case. See Fay v. Noia, 372 U.S. 391, 417-20 (1963). Also,
4 unless there are exceptional circumstances, § 2241 relief is only available if all other available
5 judicial remedies have been exhausted. Jones v. Perkins, 245 U.S. 390, 391-92 (1918).

6 Petitioner fails to point to anything suggesting his issues concerning the law library cannot
7 be resolved in his criminal case and there do not appear to be exceptional circumstances justifying
8 a waiver of the exhaustion requirement.¹ In any case, petitioner fails to point to anything
9 suggesting his federal rights are being denied in anyway by the amount of access to the law
10 library that he has received or is receiving. The overwhelming number of motions, requests and
11 the like filed in 2:12-cr-0154 JAM suggests he is receiving more than adequate access. Further,
12 petitioner was appointed advisory counsel on February 6, 2015 and nothing suggests his ability to
13 consult with advisory counsel is improperly limited.

14 For these reasons, the court will recommend that petitioner's § 2241 petition for a writ of
15 habeas corpus be dismissed.

16 Accordingly, IT IS HEREBY ORDERED that:

- 17 1. Petitioner's request to proceed in forma pauperis (ECF No. 5) is granted; and
- 18 2. The Clerk of the Court is directed to assign a district court judge to this case.

19 IT IS HERBY RECOMMENDED that petitioner's application for writ of habeas corpus
20 be dismissed.

21 These findings and recommendations are submitted to the United States District Judge
22 assigned to the case, pursuant to the provisions of 28 U.S.C. § 636(b)(1). Within fourteen days
23 petitioner may file written objections with the court and serve a copy on all parties. Such a
24 document should be captioned "Objections to Magistrate Judge's Findings and

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26 ¹ The court notes that in 2:12-cr-0154 JAM, the court has ordered that no further motions be filed
27 until further notice from the court. This appears to be in response to the hundreds of frivolous
28 motions filed by petitioner amounting to severe abuse of judicial process the likes of which are
rarely seen in this court. However, nothing suggests petitioner cannot request more law library
access the next time he appears in court or when the court lifts the filing limitation.

1 Recommendations.” In his objections petitioner may address whether a certificate of
2 appealability should issue in the event he files an appeal of the judgment in this case. See 28
3 U.S.C. § 2253. Petitioner is advised that failure to file objections within the specified time may
4 waive the right to appeal the District Court’s order. Martinez v. Ylst, 951 F.2d 1153 (9th Cir.
5 1991).

6 Dated: September 3, 2015



7 CAROLYN K. DELANEY
8 UNITED STATES MAGISTRATE JUDGE

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