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UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF CALIFORNIA

KENNETH WAYNE MILLS,  
Petitioner,  
v.  
CALIFORNIA MEDICAL FACILITY,  
Respondent.

No. 2: 16-cv-2766 JAM KJN P

ORDER

Petitioner, a state prisoner proceeding without counsel, has filed a petition for a writ of habeas corpus pursuant to 28 U.S.C. § 2254, together with an application to proceed in forma pauperis.

Petitioner challenges his conditions of confinement at the California Medical Facility (“CMF”). For example, petitioner alleges that he suffers back pain because of an improper mattress. The purpose of a petition for writ of habeas corpus pursuant to 28 U.S.C. § 2254 is to challenge the legality or validity of a conviction or sentence. The purpose of a civil rights action pursuant to 42 U.S.C. § 1983 is to challenge conditions of confinement. Because petitioner challenges conditions of confinement, this action is construed as a civil rights action pursuant to 42 U.S.C. § 1983.

Accordingly, the petition is dismissed with thirty days to file a complaint on the complaint form provided by the Clerk of the Court. Following receipt of the complaint, the court will

1 evaluate petitioner's application to proceed in forma pauperis.

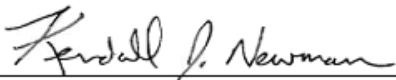
2 Accordingly, IT IS HEREBY ORDERED that:

3 1. This action is construed as a civil rights action pursuant to 42 U.S.C. § 1983;

4 2. The petition is dismissed with thirty days to file a civil rights complaint; failure to file a  
5 complaint will result in dismissal of this action;

6 3. The Clerk of the Court is directed to send plaintiff the form for a civil rights action  
7 brought by a prisoner pursuant to 42 U.S.C. § 1983.

8 Dated: December 23, 2016

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11 KENDALL J. NEWMAN  
12 UNITED STATES MAGISTRATE JUDGE

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