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UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF CALIFORNIA

ERIC RICHARD ELESON,  
Petitioner,  
v.  
SCOTT KERNAN,  
Respondent.

No. 2:18-cv-2074-TLN-EFB P

FINDINGS AND RECOMMENDATIONS

Petitioner is a state prisoner without counsel seeking a writ of habeas corpus pursuant to 28 U.S.C. § 2254. He has paid the filing fee. The court has reviewed the petition as required by Rule 4 of the Rules Governing Section 2254 Proceedings, and finds that it must be summarily dismissed. *See* Rule 4, Rules Governing § 2254 Cases (requiring summary dismissal of habeas petition if, upon initial review by a judge, it plainly appears “that the petitioner is not entitled to relief in the district court”).

Federal courts offer two main avenues to relief on complaints related to one’s imprisonment – a petition for habeas corpus pursuant to 28 U.S.C. § 2254, and a civil rights complaint pursuant to 42 U.S.C. § 1983. Challenges to the validity of one’s confinement or the duration of one’s confinement are properly brought in a habeas action, whereas requests for relief turning on the circumstances of one’s confinement are properly brought in a § 1983 action. *Muhammad v. Close*, 540 U.S. 749, 750 (2004) (citing *Preiser v. Rodriguez*, 411 U.S. 475, 500

1 (1973)); *see also* 28 U.S.C. § 2254(a) (“[A] district court shall entertain an application for a writ  
2 of habeas corpus in behalf of a person in custody pursuant to the judgment of a State court only  
3 on the ground that he is in custody in violation of the Constitution or laws or treaties of the United  
4 States.”); Advisory Committee Notes to Rule 1 of the Rules Governing § 2254 Cases.

5 In this case, petitioner complains that he had been denied a “Clear-Case Memory  
6 Typewriter” without due process. ECF No. 1 at 3-4. As relief, he requests that the court order the  
7 California Department of Corrections and Rehabilitation “to Notify the Approved Vendors that  
8 the Swintec 2416 DM Model ‘Clear-Case’ Memory Typewriters are authorized for sale to  
9 Prisoners in California . . . .” *Id.* at 4. This habeas action must be summarily dismissed because  
10 petitioner’s claim concerns only the conditions of his confinement. It does not concern the  
11 validity or duration of his confinement.

12 Accordingly, IT IS HEREBY RECOMMENDED that this action be dismissed.

13 These findings and recommendations are submitted to the United States District Judge  
14 assigned to the case, pursuant to the provisions of 28 U.S.C. § 636(b)(1). Within fourteen days  
15 after being served with these findings and recommendations, any party may file written  
16 objections with the court and serve a copy on all parties. Such a document should be captioned  
17 “Objections to Magistrate Judge’s Findings and Recommendations.” Failure to file objections  
18 within the specified time may waive the right to appeal the District Court’s order. *Turner v.*  
19 *Duncan*, 158 F.3d 449, 455 (9th Cir. 1998); *Martinez v. Ylst*, 951 F.2d 1153 (9th Cir. 1991). In  
20 his objections petitioner may address whether a certificate of appealability should issue in the  
21 event he files an appeal of the judgment in this case. *See* Rule 11, Rules Governing  
22 § 2254 Cases (the district court must issue or deny a certificate of appealability when it enters a  
23 final order adverse to the applicant).

24 Dated: October 11, 2018.

25   
26 EDMUND F. BRENNAN  
27 UNITED STATES MAGISTRATE JUDGE  
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