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IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

| | | |
|-------------------|---|------------------------|
| MICHAEL L. EVANS, |) | |
| |) | |
| Petitioner, |) | No. C 05-4427 CRB (PR) |
| |) | |
| vs. |) | ORDER OF DISMISSAL |
| |) | |
| T. KNOX, et al., |) | |
| |) | |
| Respondent(s). |) | |
| _____ |) | |

Petitioner, a state prisoner at San Quentin State Prison, has filed a pro se petition for a writ of habeas corpus alleging various wrongdoing (including punching him) on the part several correctional officers.

The petition for a writ of habeas corpus is DISMISSED without prejudice to filing a civil rights complaint under 42 U.S.C. § 1983. The Ninth Circuit has made clear that habeas jurisdiction is absent, and a § 1983 action proper, where, as here, a successful challenge will not necessarily shorten the prisoner’s sentence. See Ramirez v. Galaza, 334 F.3d 850, 859 (9th Cir. 2003).

The clerk shall enter judgment in accordance with this order, terminate all pending motions as moot, and close the file. No fee is due.

SO ORDERED.

DATED: Nov. 04, 2005



 CHARLES R. BREYER
 United States District Judge