

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

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

SANTIAGO CASSO, JR.,)	
)	
Petitioner,)	No. C 06-7667 CRB (PR)
)	
vs.)	ORDER OF DISMISSAL
)	
PEOPLE OF THE STATE OF)	
CALIFORNIA,)	
)	
Respondent(s).)	
_____)	

Petitioner, a prisoner at the Alameda County jail, Santa Rita Facility, has filed a pro se petition for a writ of habeas corpus challenging the adequacy of medical care he is receiving at the jail.

The petition for a writ of habeas corpus is DISMISSED without prejudice to filing a civil rights complaint under 42 U.S.C. § 1983. Although the Supreme Court has not addressed whether a challenge to a condition of confinement may be brought under habeas, see Bell v. Wolfish, 441 U.S. 520, 526 n.6 (1979), the Ninth Circuit has held that habeas jurisdiction is absent, and a § 1983 action proper, where, as here, a successful challenge to a prison condition will not necessarily shorten the prisoner’s sentence. Ramirez v. Galaza, 334 F.3d 850, 859 (9th Cir. 2003). In addition, the preferred practice in the Ninth Circuit has

1 been that challenges to conditions of confinement be brought in a civil rights
2 complaint. See Badea v. Cox, 931 F.2d 573, 574 (9th Cir. 1991) (civil rights
3 action is proper method of challenging conditions of confinement); Crawford v.
4 Bell, 599 F.2d 890, 891-92 & n.1 (9th Cir. 1979) (affirming dismissal of habeas
5 petition on basis that challenges to terms and conditions of confinement must be
6 brought in civil rights complaint).

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

9 SO ORDERED.

10 DATED: December 18, 2006

11 
12 _____
13 CHARLES R. BREYER
14 United States District Judge
15
16
17
18
19
20
21
22
23
24
25
26
27
28