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

11 MICHAEL P HOLLINS, No C-09-1929 VRW (PR)  
12 Petitioner,  
13 v ORDER OF DISMISSAL  
14 SAUNDRA B ARMSTRONG et al,  
15 Respondents. (Doc ## 2 & 4)

Petitioner, a federal prisoner incarcerated at the United States Penitentiary, Hazelton in West Virginia, has filed a pro se petition for a writ of habeas corpus under 28 USC section 2241 challenging a November 2007 sentence from this court (Armstrong, J.). See United States v Hollins, No CR 92-00126-SBA (ND Cal Nov 28, 2007 (judgment and commitment)). Specifically, petitioner is challenging the court's revocation of his supervised release and imposition of a 37 month prison term followed by a 23 month term of supervised release, which resulted after the court found petitioner guilty of five violations of the conditions attached to his term of five years of supervised release. See United States v Hollins, No CR 92-00126-

1 SBA, Doc #175. He also seeks leave to proceed in forma pauperis.  
2 Doc ## 2 & 4.

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I

5 The court may permit the commencement of this action  
6 without prepayment of fees or security thereof if petitioner submits  
7 an affidavit that states he is unable to pay such fees or give  
8 security thereof. 28 USC § 1915(a)(1). Petitioner's application to  
9 proceed in forma pauperis shows that the average deposits into his  
10 prisoner account each month for the most recent six month period  
11 were for \$500.00 and that the average balance in his prisoner's  
12 account each month for the most recent six month period was \$67.51.

13 Petitioner's application to proceed in forma pauperis is  
14 DENIED. The \$5.00 filing fee is now due.

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II

17 A prisoner in custody under sentence of a federal court  
18 who wishes to attack collaterally the validity of his conviction or  
19 sentence must do so by way of a motion to vacate, set aside or  
20 correct the sentence pursuant to 28 USC section 2255 in the court  
21 which imposed the sentence. See Tripati v Henman, 843 F2d 1160,  
22 1162 (9th Cir), cert denied, 488 US 982 (1988). Only the sentencing  
23 court has jurisdiction to hear these types of challenges. See id at  
24 1163. A prisoner may not attack collaterally a federal conviction  
25 or sentence by way of a petition for a writ of habeas corpus  
pursuant to 28 USC section 2241. See Grady v United States, 929 F2d

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1 468, 470 (9th Cir 1991) (challenge to sentence following probation  
2 or parole revocation must be brought in sentencing court via section  
3 2255 motion); Tripathi, 843 F2d at 1162 (challenge to legality of  
4 conviction must be brought in sentencing court via section 2255  
5 motion).

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### III

8 For the foregoing reasons and for good cause shown,

9 1. Petitioner's request to proceed in forma pauperis  
10 (Doc ## 2 & 4) is DENIED. The \$5.00 filing fee is now due.

11 2. The petition for a writ of habeas corpus under 28 USC  
12 section 2241 is DISMISSED without prejudice subject to petitioner  
13 seeking relief by filing a motion under 28 USC section 2255 in the  
14 underlying case.

15 The clerk is directed to terminate any pending motions as  
16 moot, enter judgment in accordance with this order and close the  
17 file.

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19 IT IS SO ORDERED.

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22 VAUGHN R WALKER  
23 United States District Chief Judge

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