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

11 JEFFREY LAMONT TAYLOR, No. C-11-1386 TEH (PR)
12 Petitioner, ORDER OF DISMISSAL
13 v.
14 RENDON, et al.
15 Respondents.

18 Petitioner Jeffrey Lamont Taylor, a state prisoner
19 incarcerated at California State Prison - Corcoran, has filed a writ
20 of habeas corpus under 28 U.S.C. § 2254, alleging that prison
21 officials at Salinas Valley State Prison were deliberately
22 indifferent to his serious medical needs, and that the prison
23 officials' actions constitute cruel and unusual punishment.
24 Specifically, Petitioner appears to be challenging the prison
25 officials' failure to provide him with a neoprene knee brace, a back
26 brace, and hearing aids, and the health issues resulting from this
27 failure. Petitioner also seeks leave to proceed in forma pauperis
28 under 28 U.S.C. § 1915. Doc. ## 2 and 4.

1 Good cause appearing, petitioner's application to proceed
2 in forma pauperis is GRANTED.

3 Petitioner's challenges to the conditions of his
4 confinement are DISMISSED without prejudice to filing a civil rights
5 complaint under 42 USC § 1983. Although the Supreme Court has not
6 addressed whether a challenge to a condition of confinement may be
7 brought under habeas, see Bell v Wolfish, 441 US 520, 526 n6 (1979),
8 the Ninth Circuit has held that habeas jurisdiction is absent, and a
9 Section 1983 action proper, where, as here, a successful challenge
10 to a prison condition will not necessarily shorten the prisoner's
11 sentence. See Ramirez v Galaza, 334 F.3d 850, 859 (9th Cir. 2003);
12 see also Badea v Cox, 931 F.2d 573, 574 (9th Cir. 1991) (civil
13 rights action is proper method of challenging conditions of
14 confinement); Crawford v Bell, 599 F.2d 890, 891-92 & n1 (9th Cir
15 1979) (affirming dismissal of habeas petition on basis that
16 challenges to terms and conditions of confinement must be brought in
17 civil rights complaint).

18 The Clerk shall terminate any pending motions as moot,
19 enter judgment in accordance with this order and close the file.

20 IT IS SO ORDERED.

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22 DATED 9/29/2011

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Thelton E. Henderson
24 THELTON E. HENDERSON
25 United States District Judge