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8 IN THE UNITED STATES DISTRICT COURT
9 FOR THE NORTHERN DISTRICT OF CALIFORNIA
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11 JEFFREY LAMONT TAYLOR,

No. C-11-1689 TEH (PR)

12 Petitioner,

ORDER OF DISMISSAL

13 v.

14 MONTANA, et al.

15 Respondents.
16 _____/

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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, challenging prison
21 conditions. Specifically, Petitioner alleges that prison officials
22 wrongfully confiscated his personal property and legal documents in
23 violation of his constitutional rights under the First Amendment,
24 the Fifth Amendment, the Sixth Amendment, and the Fourteenth
25 Amendment. Doc. #1 at 2, Exh. A at 3. Petitioner also seeks leave
26 to proceed in forma pauperis under 28 U.S.C. § 1915.

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

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

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

IT IS SO ORDERED.

DATED 10/03/2011



THELTON E. HENDERSON
United States District Judge