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UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

GARY FISHER,  
Petitioner,  
v.  
DIRECTOR OF OPS OF CDCR,  
Respondent.

Case No. [14-cv-01478-WHO](#) (PR)

**ORDER OF DISMISSAL**

United States District Court  
Northern District of California

Petitioner Fisher asks for "compassionate release," which the Court construes as a petition for clemency. This Court has no authority to order Fisher's release on such grounds. Rather, it can order his release only on the ground that he "is in custody in violation of the Constitution or laws or treaties of the United States." 28 U.S.C. § 2254(a). Accordingly, the petition is DISMISSED. If Fisher wishes to challenge the legality or duration of his confinement, he must file a habeas petition in the district of conviction, which, according to the petition, may be either the Central or Eastern District.

Only the Governor of California is authorized to grant clemency to California state prisoners. See CAL. CONST. art. V, § 8(a); Cal. Penal Code § 4800. Fisher may wish file an appropriate petition with such official.

Fisher's motion to proceed *in forma pauperis* (Docket No. 3) is GRANTED. The Clerk shall terminate Docket No. 3, enter judgment in favor of respondent, and close the file.

**IT IS SO ORDERED.**

**Dated:** April 29, 2014

  
WILLIAM H. ORRICK  
United States District Judge

UNITED STATES DISTRICT COURT  
FOR THE  
NORTHERN DISTRICT OF CALIFORNIA  
**CERTIFICATE OF SERVICE**

I, the undersigned, hereby certify that I am an employee in the Office of the Clerk, U.S. District Court, Northern District of California.

That on April 29, 2014, I SERVED a true and correct copy of the attached, by placing said copy in a postage paid envelope addressed to the person hereinafter listed, by depositing said envelope in the U.S. Mail.

Gary Fisher F85263  
Pelican Bay State Prison B-2-105  
P.O. Box 7000  
Crescent City, CA 95532

Dated: April 29, 2014

  
Richard W. Wieking, Clerk  
By: Jean Davis, Deputy Clerk