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28UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

JERRY CLOUD,

Plaintiff,

v.

CALIFORNIA DEPARTMENT OF
CORRECTIONS,

Defendant.

Case No. [16-cv-06100-JSC](#)**ORDER GRANTING MOTION TO
HAVE PETITION CONSTRUED AS A
CIVIL RIGHTS COMPLAINT;
TRANSFERRING CASE**

Re: Dkt. No. 10

Plaintiff, a prisoner at the California Correction Center (“CCC”) in Susanville, California, filed a pro se petition for a writ of habeas corpus pursuant to 28 U.S.C. 2254. The petition did not challenge his conviction, sentence or duration of his confinement, but rather the conditions of such confinement --- specifically, his medical care at CCC. Consequently, the Court informed Plaintiff that he would need to raise his claims in a civil rights complaint not a habeas petition, advised him of the differences between proceeding with a civil action and a habeas petition, and directed him to notify the Court whether he nevertheless wished to proceed with this case as a civil action, voluntarily dismiss it, or amend his petition. *See Nettles v. Grounds*, 830 F.3d 922, 936 (9th Cir. 2016) (en banc). He has filed a motion to have the petition construed as a civil rights complaint, which motion is GRANTED.

Plaintiff, Defendant and the actions giving rise to his claim are located in the Eastern District of California. The proper venue for this case is therefore the Eastern District. *See* 28 U.S.C. § 1391(a). Accordingly, and in the interests of justice, this case is TRANSFERRED to the United States District Court for the Eastern District of California. *See* 28 U.S.C. § 1406(a). In

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light of this transfer, ruling on Plaintiff’s application to proceed in forma pauperis is deferred to the Eastern District.

The Clerk shall transfer this case forthwith and change the Court’s docket to reflect the updated nature of suit.

IT IS SO ORDERED.

Dated: February 14, 2017


JACQUELINE SCOTT CORLEY
United States Magistrate Judge