

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

STEVEN WAYNE BONILLA,

Plaintiff,

v.

RONALD DAVIS,

Defendant.

Case No. [17-cv-02551-VC](#) (PR)

**ORDER OF DISMISSAL WITH
PREJUDICE**

Re: Dkt. Nos. 3, 4

Plaintiff Steven Wayne Bonilla, a state inmate, has filed a *pro se* petition for a writ of mandamus requesting that this Court order the California Supreme Court to issue an order to show cause in his state habeas proceeding and he presents an argument for the granting of his habeas petition. Bonilla also moves for leave to proceed *in forma pauperis*. Bonilla has been disqualified from proceeding *in forma pauperis* under 28 U.S.C. § 1915(g) unless he is “under imminent danger of serious physical injury” at the time he filed his complaint. 28 U.S.C. 1915(g); *In re Steven Bonilla*, No. C 11-3180 CW (PR); *Bonilla v. Dawson*, No. C 13-0951 CW (PR).

The allegations in this complaint do not show that Bonilla was in imminent danger at the time of filing. Therefore, his motion to proceed *in forma pauperis* is denied. Furthermore, he may not proceed even if he pays the filing fee because this court lacks jurisdiction to issue a writ of mandamus. *See* 28 U.S.C. §§ 1361; 1651. Section 1361 provides, “[t]he district courts shall have original jurisdiction of any action in the nature of mandamus to compel an officer or employee of the United States or any agency thereof to perform a duty owed to the plaintiff.” *Id.* The California Supreme Court is not an agency of the United States.

Furthermore, the relief Plaintiff seeks pertains to his ongoing attempts to invalidate his conviction. Therefore, such claims, if raised, must be brought by Bonilla's counsel in his pending federal habeas corpus action, *Bonilla v. Ayers*, No. C 08-0471 YGR (PR).

Accordingly, this action is dismissed with prejudice because amendment would be futile. The Clerk of the Court shall enter a separate judgment and close the file.

IT IS SO ORDERED.

Dated: June 9, 2017



VINCE CHHABRIA
United States District Judge