

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

STEVEN WAYNE BONILLA,

Plaintiff,

v.

RONALD DAVIS,

Defendant.

Case No. [17-cv-03338-VC](#) (PR)

**ORDER OF DISMISSAL WITH
PREJUDICE**

Plaintiff Steven Wayne Bonilla, a state inmate, has filed a *pro se* complaint entitled, “Expedited Review Requested,” against Ronald Davis, the warden of the prison where Bonilla is incarcerated. The clerk has docketed this action as a petition for a writ of mandamus. 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, Bonilla is not able to proceed *in forma pauperis*. 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.* Warden Ronald Davis is not an agency of the United States.

Furthermore, the relief Plaintiff seeks pertains to his ongoing attempts to invalidate his

state criminal 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.

IT IS SO ORDERED.

Dated: June 29, 2017



VINCE CHHABRIA
United States District Judge