UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA

STEVEN WAYNE BONILLA,

Plaintiff,

v.

DAVID NICKERSON, et al.,

Defendants.

Case No. 17-cv-03451-VC (PR)

ORDER OF DISMISSAL WITH PREJUDICE

Re: Dkt. No. 3

Plaintiff Steven Wayne Bonilla, a state inmate, has filed a *pro se* complaint entitled, "Expedited Review Requested; Conspiracy to Murder," against David Nickerson, Plaintiff's attorney in his state criminal case, the California Attorney General's Office, Deputy Attorney General Bruce Ortega and the California Supreme Court requesting this Court take action against these defendants. He has also filed a motion for leave to proceed in forma pauperis. 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, 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 over the state entities and their employees. *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.*

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