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UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
OAKLAND DIVISION

THEOPRIC BLOODSAW,

Petitioner,

No. C 12-4036 PJH (PR)

vs.

**ORDER DISMISSING  
AMENDED PETITION**

T. FARLEY,

Respondent.

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Petitioner, a California prisoner currently incarcerated at Pelican Bay State Prison, has filed a pro se petition for a writ of habeas corpus pursuant to 28 U.S.C. § 2254. Petitioner's original petition was dismissed and petitioner has filed an amended petition.

**BACKGROUND**

According to the petition, Bloodsaw was convicted in Los Angeles Superior Court of assault, battery, criminal threats, and mayhem. With enhancements, he was sentenced to prison for twenty-one years and four months. The claims in this petition, however, appear to relate to events at the prison where he is held, Pelican Bay State Prison.

**DISCUSSION**

**A. Standard of Review**

This court may entertain a petition for writ of habeas corpus "in behalf of a person in custody pursuant to the judgment of a State court 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); *Rose v. Hodges*, 423 U.S. 19, 21 (1975). Habeas corpus petitions must meet heightened pleading requirements. *McFarland v. Scott*, 512 U.S. 849, 856 (1994). An application for a federal writ of habeas corpus filed by a prisoner who is in state custody

1 pursuant to a judgment of a state court must “specify all the grounds for relief which are  
2 available to the petitioner ... and shall set forth in summary form the facts supporting each  
3 of the grounds thus specified.” Rule 2(c) of the Rules Governing § 2254 Cases, 28 U.S.C.  
4 foll. § 2254. “[N]otice’ pleading is not sufficient, for the petition is expected to state facts  
5 that point to a ‘real possibility of constitutional error.’” Rule 4 Advisory Committee Notes  
6 (quoting *Aubut v. Maine*, 431 F.2d 688, 689 (1st Cir. 1970)). “Habeas petitions which  
7 appear on their face to be legally insufficient are subject to summary dismissal.” *Calderon*  
8 *v. United States Dist. Court (Nicolaus)*, 98 F.3d 1102, 1108 (9th Cir. 1996) (Schroeder, J.,  
9 concurring).

10 **B. Legal Claims**

11 Petitioner has had at least thirty cases with this court, none of which have been  
12 found to have any merit. Judge Fogel, to whom petitioner’s cases previously were  
13 assigned, determined that petitioner had had at least three cases dismissed as frivolous,  
14 malicious, or for failure to state a claim, and thus denied him leave to proceed in forma  
15 pauperis. See 28 U.S.C. § 1915(g); *Bloodsaw v. Baron*, C 08-04121 JF (PR) (order Nov.  
16 19, 2008). The “three strikes” provision of section 1915(g), does not, however, apply to  
17 habeas cases. See *Naddi v. Hill*, 106 F.3d 275, 277 (9th Cir. 1997). Petitioner’s original  
18 petition was dismissed with leave to amend as the claims were so unclear that it was not  
19 possible to be sure what relief he sought. It appeared that most or all of the claims involved  
20 conditions of confinement, in which case it may be that petitioner filed this case as a  
21 habeas petition in an effort to avoid the “three strikes” rule.

22 Petitioner’s amended petition has not cured the deficiencies of his prior petition. The  
23 amended petition is confusing and rambling. Petitioner appears to raise claims regarding  
24 the conditions of his confinement along with claims regarding his underlying arrest in Los  
25 Angeles.

26 Claims that do not involve the fact or duration of the petitioner’s confinement are not  
27 properly the proper subject of a habeas action. See *Moran v. Sondalle*, 218 F.3d 647, 650-  
28 52 (7th Cir. 2000); *Badea v. Cox*, 931 F.2d 573, 574 (9th Cir. 1991) (civil rights action is

1 proper method of challenging conditions of confinement); *Crawford v. Bell*, 599 F.2d 890,  
2 891-92 & n.1 (9th Cir. 1979) (affirming dismissal of habeas petition on basis that challenges  
3 to terms and conditions of confinement must be brought in civil rights complaint).

4 Petitioner has failed to show any connection between the events he describes and  
5 the length of his confinement. Furthermore, the present claims do not set out facts “that  
6 point to a ‘real possibility of constitutional error.’” Rule 4 Advisory Committee Notes  
7 (quoting *Aubut*, 431 F.2d 689). Conclusory allegations such as “chain conspiracy” or “I am  
8 the victim of hate crimes” are not facts.

9 Petitioner has already been granted leave to amend once and it is clear that allowing  
10 any further amendments would be futile. If petitioner wishes to bring an action regarding  
11 his conditions of confinement he must file a civil rights action.

12 **CONCLUSION**

13 The petition is **DISMISSED** for the reasons set out above. Because reasonable  
14 jurists would not find the result here debatable, a certificate of appealability (“COA”) is  
15 **DENIED**. See *Slack v. McDaniel*, 529 U.S. 473, 484-85 (2000) (standard for COA). The  
16 clerk shall close the file.

17 **IT IS SO ORDERED.**

18 Dated: January 7, 2013.



19 \_\_\_\_\_  
20 PHYLLIS J. HAMILTON  
21 United States District Judge

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