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IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

BOBBY RAYFORD WILLIAMS,)	
Petitioner,)	No. C 09-00345 JW (PR)
vs.)	ORDER OF DISMISSAL
R. K. WONG, Warden,)	
Respondent.)	
)	

Petitioner, a California state prisoner currently incarcerated at the San Quentin State Prison, has filed a pro se petition for a writ of habeas corpus pursuant to 28 U.S.C. § 2254. Petitioner has paid the filing fee.

Petitioner claims that he discovered for the first time a Rules Violation Report (“RVR”) from October 2004 his central file while preparing for a parole consideration hearing in October 2006. (Pet. 3.) Petitioner claims that he never received a copy of the RVR, which was dismissed after a finding of not guilty. (Id. at 4.) Petitioner alleges that defendants’ failure to give proper notice and to expunge the dismissed RVR violated his right to due process under Wolff v. McDonnell, 418 U.S. 539, 556 (1974). Petitioner's only prayer for relief is that the RVR be expunged from his record.

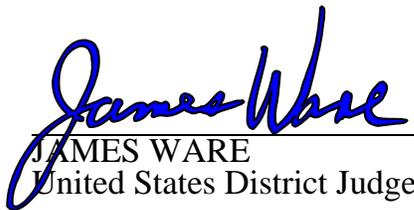
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Since petitioner is challenging the conditions of his confinement, the petition for a writ of habeas corpus is DISMISSED without prejudice to filing a civil rights complaint under 42 U.S.C. § 1983. The Ninth Circuit has made clear that habeas jurisdiction is absent, and a § 1983 action proper, where, as here, a successful challenge will not necessarily shorten the prisoner’s sentence. See Ramirez v. Galaza, 334 F.3d 850, 859 (9th Cir. 2003). Moreover, requests to expunge records are traditionally brought as civil rights claims. See, e.g., Paul v. Davis, 424 U.S. 693, 711- 714 (1976); Reyes v. Supervisor of DEA, et al., 834 F. 2d 1093, 1097 (1st Cir. 1987) (no due process claim for false information maintained by police department); Pruett v. Levi, 622 F.2d 256, 258 (6th Cir. 1980) (mere existence of inaccuracy in FBI criminals files does not state constitutional claim).

CONCLUSION

For the foregoing reasons, the petition for a writ of habeas corpus is DISMISSED without prejudice.

DATED: June 8, 2009 _____



JAMES WARE
United States District Judge

UNITED STATES DISTRICT COURT
FOR THE
NORTHERN DISTRICT OF CALIFORNIA

BOBBY RAYFORD WILLIAMS,
Petitioner,

Case Number: CV09-00345 JW

CERTIFICATE OF SERVICE

v.

R. K. WONG, Warden,
Respondent.

_____/

I, the undersigned, hereby certify that I am an employee in the Office of the Clerk, U.S. District Court, Northern District of California.

That on 6/10/2009, I SERVED a true and correct copy(ies) of the attached, by placing said copy(ies) in a postage paid envelope addressed to the person(s) hereinafter listed, by depositing said envelope in the U.S. Mail, or by placing said copy(ies) into an inter-office delivery receptacle located in the Clerk's office.

Bobby Rayford Willaims C-33295
San Quentin State Prison
San Quentin, Ca 94974

Dated: 6/10/2009

Richard W. Wieking, Clerk
/s/ By: Elizabeth Garcia, Deputy Clerk