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FILED
17 MAY 30 PM 1:57
CLERK, U.S. DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA
BY: *[Signature]* DEPUTY

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA**

BOBBY SHAWN LOCKHART,
Petitioner,
v.
ALLEN, Grievance Coordinator, et al.,
Respondents.

Case No.: 17cv1011 BEN (KSC)

**ORDER: (1) GRANTING MOTION
TO PROCEED IN FORMA
PAUPERIS; and (2) DISMISSING
CASE WITHOUT PREJUDICE**

Petitioner, proceeding pro se, has submitted a Petition for Writ of Habeas Corpus pursuant to 28 U.S.C. § 2241, together with a request to proceed in forma pauperis.

MOTION TO PROCEED IN FORMA PAUPERIS

Petitioner cannot afford the \$5.00 filing fee. Thus, the Court **GRANTS** Petitioner's application to proceed in forma pauperis, and allows Petitioner to prosecute the above-referenced action as a poor person without being required to prepay fees or costs and without being required to post security. The Clerk of the Court will file the Petition for Writ of Habeas Corpus without prepayment of the filing fee.

FAILURE TO STATE A COGNIZABLE CLAIM

Upon review of the Petition, it appears to the Court that a Petition for Writ of Habeas Corpus brought pursuant to § 2241 is not the proper vehicle for the claims Petitioner presents. Petitioner lists various problems he claims he is facing in custody.

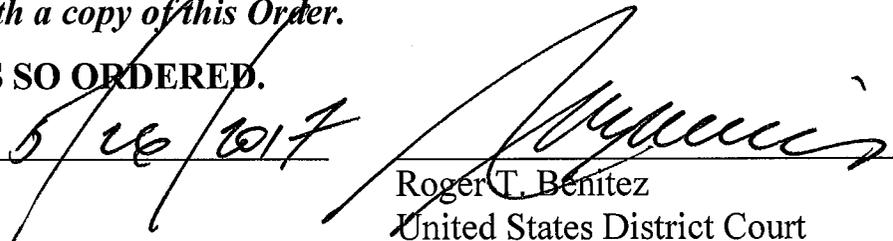
1 Specifically, Petitioner claims: his access to courts has been interfered with, his Freedom
2 of Information Act rights are being violated, and he has been denied medical care. (Pet.
3 at 1-7, ECF No. 1.) Petitioner's claims are not cognizable on habeas review. Challenges
4 to the fact or duration of confinement are brought by petition for a writ of habeas corpus,
5 pursuant to 28 U.S.C. § 2254 or § 2241; challenges to conditions of confinement are
6 brought pursuant to the Civil Rights Act, 42 U.S.C. § 1983, *see Preiser v. Rodriguez*, 411
7 U.S. 475, 500 (1973), or pursuant to *Bivens v. Six Unknown Named Agents of the Federal*
8 *Bureau of Narcotics*, 403 U.S. 388 (1971), the "federal analogue" to § 1983. *Hartman v.*
9 *Moore*, 547 U.S. 250, 254, 255 n.2 (2006). A *Bivens* action is the proper remedy for a
10 federal prisoner who is making a constitutional challenge to the conditions of his prison
11 life, but not to the fact or length of his custody. *See Preiser*, 411 U.S. at 499; *Bivens*, 403
12 U.S. 388. It appears that Petitioner challenges the conditions of his prison life, but not
13 the fact or length of his custody. Thus, Petitioner has not stated a cognizable habeas
14 claim pursuant to § 2241.

15 CONCLUSION

16 Based on the foregoing, the Court **GRANTS** Petitioner's request to proceed in
17 forma pauperis. The Clerk of the Court will file the Petition for Writ of Habeas Corpus
18 without prepayment of the filing fee. Further, the Court **DISMISSES** this case without
19 prejudice. *The Clerk of Court is directed to mail Petitioner a Pro Se Prisoner Packet*
20 *together with a copy of this Order.*

21 **IT IS SO ORDERED.**

22 **DATED:** 5/26/2017

23 
24 Roger T. Benitez
25 United States District Court
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