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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

WILLIAM ORREN DAWES,

Plaintiff,

v.

THE PEOPLE,

Defendant.

Case No.: 19cv1921-CAB-BGS

**ORDER DISMISSING CASE
WITHOUT PREJUDICE**

On October 2, 2019, Petitioner filed a Petition for Writ of Habeas Corpus under 28 U.S.C. §2241. [Doc. No. 1.] Petitioner did not pay the filing fee and did not file a motion to proceed in forma pauperis.

FAILURE TO SATISFY FILING FEE REQUIREMENT

Petitioner has failed to pay the \$5.00 filing fee or move to proceed in forma pauperis. This Court cannot proceed until Petitioner has either paid the \$5.00 filing fee or qualified to proceed in forma pauperis. See Rule 3(a), 28 U.S.C. foll. § 2254.

FAILURE TO STATE A COGNIZABLE CLAIM ON HABEAS CORPUS

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 claims he is a pretrial detainee in the San Diego County Jail, but he also appears to be challenging an administrative decision rendered at a county

1 jail facility having to do with Petitioner being involuntarily medicated for the last two
2 years. [Doc. No. 1 at 2.] The allegations in this Petition appear to relate to conditions of
3 confinement rather than any constitutional claims that may affect the duration of his
4 confinement.¹

5 Petitioner’s claims are not cognizable on habeas review. Challenges to the fact or
6 duration of confinement are brought by petition for a writ of habeas corpus, pursuant to
7 28 U.S.C. § 2254 or § 2241; challenges to conditions of confinement are brought
8 pursuant to the Civil Rights Act, 42 U.S.C. § 1983, see *Preiser v. Rodriguez*, 411 U.S.
9 475, 500 (1973), or pursuant to *Bivens v. Six Unknown Named Agents of the Federal*
10 *Bureau of Narcotics*, 403 U.S. 388 (1971), the “federal analogue” to § 1983. *Hartman v.*
11 *Moore*, 547 U.S. 250, 254, 255 n.2 (2006). Although the Ninth Circuit has stated that
12 “petitions that challenge the manner, location, or conditions of a sentence’s execution
13 must be brought pursuant to § 2241 in the custodial court,” *Hernandez v. Campbell*, 204
14 *F.3d* 861, 865 (9th Cir. 2000) (per curiam) (emphasis added), general conditions of
15 confinement claims are not cognizable under § 2241. See *Wright v. Shartle*, 699
16 *Fed.Appx.* 733 (9th Cir. 2017) (finding claims that BOP officials unconstitutionally
17 seized mail and imposed sanctions of loss of phone, visitation, and email correspondence
18 privileges are not cognizable under § 2241 and should instead be brought in a civil rights
19 action). Here, it appears that Petitioner challenges the conditions of his prison life, but
20 not the fact or length of his custody. Thus, Petitioner has not stated a cognizable habeas
21 claim pursuant to § 2241.

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26 ¹ The Court notes that Petitioner has two other habeas cases pending in this Court: (1)
27 Case No. 19cv1920-LAB-AGS (28 U.S.C. §2254) and (2) Case No. 19cv1524-AJB-NLS
28 (28 U.S.C. §2241).

1 **CONCLUSION**

2 For the reasons set forth above, the Court **DISMISSES** this case without prejudice
3 to being refiled **with a new case number** pursuant to 42 U.S.C. §1983. The Clerk of
4 Court shall provide Petitioner with a blank copy of the Court’s form “Complaint under
5 the Civil Rights Act, 42 U.S.C. § 1983.” The Clerk of Court shall **CLOSE** this case.

6 **IT IS SO ORDERED.**

7 Dated: October 4, 2019

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10 Hon. Cathy Ann Bencivengo
11 United States District Judge
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