

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF INDIANA**

ROBERT DAVID NEAL,)
vs.)
Petitioner,)
vs.)
JOHN C. OLIVER,)
Respondent.)
2:12-cv-223-JMS-WGH

Entry and Order Dismissing Action

I.

A necessary predicate for the granting of federal habeas relief [to a petitioner] is a determination by the federal court that [his or her] custody violates the Constitution, laws, or treaties of the United States.¹ Accordingly, habeas corpus review is available only where the deprivation of rights is such that it necessarily impacts the fact or length of detention.² This means, in part, that a challenge to the conditions of confinement may not be brought pursuant to 28 U.S.C. 2241.³

The petitioner seeks a writ of habeas corpus based on conditions of his confinement, involving his assignment to certain programs, at the Federal Correctional Complex in Terre Haute, Indiana.

The writ which sought is not available based on the allegations presented. The action is therefore summarily dismissed without prejudice.⁴

1 *Rose vs. Hedges*, 423 U.S. 19, 21 (1975).

² *Leamer v. Fauver*, 288 F.3d 532, 540 (3d Cir. 2002).

³ *Graham v. Broglin*, 922 F.2d 379, 381 (7th Cir. 1991); *Falcon v. U.S. Bureau of Prisons*, 52 F.3d 137, 138-39 (7th Cir. 1995).

⁴ *McFarland v. Scott*, 512 U.S. 849, 856 (1994) (“Federal courts are authorized to dismiss summarily any habeas petition that appears legally insufficient on its face.”).

II.

Judgment consistent with this Entry shall now issue.

IT IS SO ORDERED.

Date: 08/01/2012

Distribution:

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Hon. Jane Magnus-Stinson, Judge
United States District Court
Southern District of Indiana