

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF INDIANA
TERRE HAUTE DIVISION

KEITH L. BLACKWELL,)	
)	
Petitioner,)	
)	
v.)	No. 2:17-cv-00363-JMS-MJD
)	
E. TRUEBLOOD M.D.,)	
HEATHER MATA PA.(FCI),)	
S. JULIAN Warden Complex,)	
WILLIAM E. WILSON MD/CD,)	
)	
Respondents.)	

Entry Dismissing Petition for Writ of Habeas Corpus

Petitioner Keith L. Blackwell, a prisoner confined at the United States Penitentiary in Terre Haute, Indiana, filed this civil action. He titled this action “Petition for a Writ of Habeas Corpus under 28 U.S.C. 2241.”

“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.” *Rose vs. Hodges*, 423 U.S. 19, 21 (1975). Accordingly, habeas corpus review is available only “where the deprivation of rights is such that it necessarily impacts the fact or length of detention.” This means, in part, that a challenge to the conditions of confinement may not be brought pursuant to 28 U.S.C. § 2241.

In this case, Blackwell seeks a writ of habeas corpus based on the conditions of his confinement. Specifically, he alleges that he is being denied medical care and adequate conditions including showers in violation of his constitutional rights.

Federal courts are authorized to dismiss summarily any habeas petition that appears legally insufficient on its face.” *McFarland v. Scott*, 512 U.S. 849, 856 (1994). That is the case here. The petition for habeas corpus relief based on the conditions of Blackwell’s confinement is dismissed without prejudice because the grounds for relief raised in the petition do not support a challenge to the fact or anticipated duration of his confinement. *See Muhammad v. Close*, 540 U.S. 749, 750 (2004) (observing that “challenges to the validity of any confinement or to the particulars affecting its duration are the province of habeas corpus”); *cf. Glaus v. Anderson*, 408 F.3d 382, 386–88 (7th Cir. 2005) (holding that a prisoner’s request to be transferred to a prison facility that could give him proper medical treatment for Hepatitis C was inappropriate under a habeas petition because it was a conditions-of-confinement claim); *Bunn v. Conley*, 309 F.3d 1002, 1007 (7th Cir. 2002) (If the prisoner is seeking a “different program or location or environment, then he is challenging the conditions rather than the fact of his confinement and his remedy is under civil rights law.” (internal citations omitted)).

The dismissal of this action is based only on the determination that Blackwell cannot obtain the relief he seeks through a habeas petition. This Court will not convert this § 2241 action into another civil action because of the varying requirements and restrictions concerning inmate litigation, depending on the statute invoked. *See Collins v. Holinka*, 510 F.3d 666, 667 (7th Cir. 2007); *Glaus v. Anderson*, 408 F.3d 382, 389–90 (7th Cir. 2005); *Richmond v. Scibana*, 387 F.3d 602, 606 (7th Cir. 2004). The Court makes no determination on the merits of Blackwell’s claims or regarding whether he may be successful on his claims in a civil rights or other type of action. He may immediately refile this action in a proper case, but he is notified that if he does so, the new case will be subject to the \$400.00 filing fee and the screening requirement of 28 U.S.C. § 1915A.

If he files a civil claim and it is dismissed under 28 U.S.C. § 1915A, he will incur a “strike” pursuant to 28 U.S.C. § 1915(g).

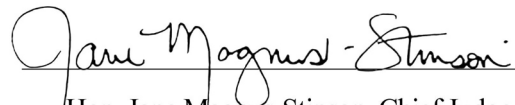
For the reasons explained above, this action is dismissed without prejudice and Judgment consistent with this Entry shall now issue.

The **clerk is directed** to include a copy of a prisoner civil rights complaint form along with the plaintiff’s copy of this Entry.

Judgment consistent with this Entry shall now issue.

IT IS SO ORDERED.

Date: 8/9/2017

A handwritten signature in black ink that reads "Jane Magnus-Stinson". The signature is written in a cursive style with a horizontal line underlining the name.

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

Distribution:

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