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UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

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ERIC CHRISTIAN,

Petitioner,

Case No. 2:17-cv-01709-JCM-PAL

ORDER

v.

JOE LOMBARDO, et al.,

Respondents.

Eric Christian has filed what he styled an appeal of federal criminal conviction and state concurrent custody (ECF No. 1-1). His application to proceed *in forma pauperis* (ECF No. 1) shall be granted. His purported petition is defective in several respects and shall be dismissed.

First, the pleading is not on any of the court's forms. LSR 3-1, 4-1. Second, while Christian refers to a state-court case, which would potentially implicate his rights under 28 U.S.C. § 2241 or § 2254, he sets forth no grounds alleging that he is in custody pursuant to a state-court judgment in violation of his federal constitutional rights. § 2254(a). Third, Christian indicates that he seeks to challenge his federal criminal conviction in case no. 2:09-cr-00303-RFB-VCF-1. In order to challenge a federal criminal conviction, Christian must file a § 2255 motion to vacate, set aside or correct that sentence. A § 2255 motion is to be filed in the underlying federal criminal case itself. Christian apparently is aware that the proper course is a § 2255 motion, because he has in fact filed such motion, and it is pending in his federal criminal case

1 (2:09-cr-00303-RFB-VCF-1, ECF No. 408). Accordingly, this action shall be dismissed
2 for failure to state a claim for which relief may be granted.

3 The court finally notes that Christian has filed a motion for surgery (ECF No. 8).
4 If Christian claims that the actions or inactions of prison personnel constitute deliberate
5 indifference to his serious medical needs, he must file a 42 U.S.C. § 1983 civil rights
6 complaint.

7 **IT IS THEREFORE ORDERED** that Christian's application to proceed *in forma*
8 *pauperis* (ECF No. 1) is **GRANTED**.

9 **IT IS FURTHER ORDERED** that the Clerk **shall detach and file** the petition
10 (ECF No. 1-1).

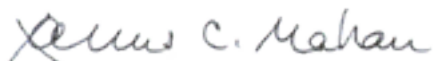
11 **IT IS FURTHER ORDERED** that the petition is **DISMISSED**.

12 **IT IS FURTHER ORDERED** that the petitioner is denied a certificate of
13 appealability.

14 **IT IS FURTHER ORDERED** that the following motions filed by petitioner: motion
15 to stay (ECF No. 3); motion for magistrate ruling (ECF No. 6); motion for inmate
16 relocation (ECF No. 7); motion for surgery (ECF No. 8); motion for judgment (ECF No.
17 9); and motion for summary judgment (ECF No. 10) are all **DENIED**.

18 **IT IS FURTHER ORDERED** that the Clerk shall enter judgment accordingly and
19 close this case.

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22 DATED: November 6, 2017.

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24 _____
25 JAMES C. MAHAN
26 UNITED STATES DISTRICT JUDGE
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