

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

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ERIC CHRISTIAN, v. JOE LOMBARDO, et al.,	Petitioner, Respondents.	Case No. 2:17-cv-01709-JCM-PAL ORDER
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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.

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

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

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

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

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

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

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

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

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

DATED: November 6, 2017.

James C. Mahan
JAMES C. MAHAN
UNITED STATES DISTRICT JUDGE