

1 UNITED STATES DISTRICT COURT
2 DISTRICT OF NEVADA

3 LANALSIKOV LOWE,

4 Plaintiff

5 v.

6 CORECIVIC BOARD OF DIRECTORS,

7 Defendant.

Case No. 2:24-cv-01547-JAD-EJY

ORDER

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9 Plaintiff, who is incarcerated in the Nevada Southern Detention Center, has submitted a
10 document purporting to be a petition for writ of habeas corpus in this action. ECF No. 1-1. However,
11 Plaintiff's petition appears to be challenging the conditions of his confinement which are normally
12 raised in a 42 U.S.C. § 1983 or *Bivens*¹ action. Plaintiff cannot pursue civil rights claims in a habeas
13 case. *See Nettles v. Grounds*, 830 F.3d 922, 927 (9th Cir. 2016) (reiterating that “habeas is the
14 exclusive vehicle for claims brought by state prisoners that fall within the core of habeas, and such
15 claims may not be brought in a § 1983 action”); *Wilkinson v. Dotson*, 544 U.S. 74, 81–82 (2005)
16 (holding that “a state prisoner’s § 1983 action is barred (absent prior invalidation)—no matter the
17 relief sought (damages or equitable relief), no matter the target of the prisoner’s suit (state conduct
18 leading to conviction or internal prison proceedings)—if success in that action would necessarily
19 demonstrate the invalidity of confinement or its duration”). Plaintiff may pursue either his civil
20 rights claims in this case or his habeas claims in this case, but not both. If Plaintiff is trying to pursue
21 both types of claims, he will need to file a different lawsuit for each of his civil rights lawsuit and
22 habeas petition.

23 To help Plaintiff determine which type of lawsuit he is trying to bring in this case, the Court
24 will send Plaintiff forms for both a civil rights action and a habeas action. **By September 26, 2024**,
25 Plaintiff will file either a civil rights complaint or habeas petition on this Court’s approved form in
26 this case.

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28 ¹ *Bivens v. Six Unknown Named Agents of Fed. Bureau of Narcotics*, 403 U.S. 388 (1971).

1 Additionally, Plaintiff has neither paid the filing fee for this action nor submitted an
2 application to proceed *in forma pauperis* (“IFP”). Plaintiff must pay the filing fee or complete an
3 IFP application. To proceed *in forma pauperis*, that is, without **prepaying** the filing fee, Plaintiff
4 must comply with 28 U.S.C. § 1915(a) and Local Rule LSR 1-2. This requires Plaintiff to submit
5 **three** required documents to the Court including: (1) a completed **Application to Proceed in Forma**
6 **Pauperis for Inmate**, on this Court’s approved form (*i.e.* pages 1 through 3 with the inmate’s two
7 signatures on page 3), (2) a **Financial Certificate** properly signed by both the inmate and a prison
8 or jail official (*i.e.* page 4 of this Court’s approved form), and (3) a copy of the **inmate’s prison or**
9 **jail trust fund account statement for the previous six-month period**. Plaintiff must pay the full
10 filing fee for this action or file a fully complete IFP application on this Court’s approved form and
11 submit the required attachments by **September 26, 2024**, or face possible dismissal of this action.
12 Plaintiff should note the differences in the filing fees between a habeas action (\$5) and a civil rights
13 action (\$405).

14 Accordingly, IT IS HEREBY ORDERED that on or before **September 26, 2024**, Plaintiff
15 must either pay the filing fee for a civil action (\$405) or habeas action (\$5) or file with the Court:
16 (1) a complete **Application to Proceed in Forma Pauperis for Inmate** on the Court’s approved
17 form; (2) a **Financial Certificate** properly signed by both the inmate and a prison or jail official;
18 and (3) a copy of the **inmate’s prison or jail trust fund account statement for the previous six-**
19 **month period**.

20 IT IS FURTHER ORDERED that if Plaintiff fails to pay the filing fee or file a fully complete
21 IFP application by the deadline, the Court will recommend dismissing this case without prejudice.

22 IT IS FURTHER ORDERED that on or before **September 26, 2024**, Plaintiff must file either
23 a civil rights complaint or habeas petition on this Court’s approved form in this case.

24 IT IS FURTHER ORDERED that the Clerk of the Court will send Plaintiff courtesy copies
25 of the Court’s approved forms for (1) an application to proceed *in forma pauperis* for inmates and
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instructions; (2) a 42 U.S.C. § 1983 complaint and instructions; and (3) a 28 U.S.C. § 2254 habeas corpus form and instructions.

Dated this 27th day of August, 2024.


ELAYNA J. YOUCHAK
UNITED STATES MAGISTRATE JUDGE