

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

* * *

JOE SUSTACHA,

Petitioner,

v.

STATE OF NEVADA, *et al.*,

Respondents.

Case No. 3:17-cv-00536-MMD-WGC

ORDER

Joe Sustacha has submitted *pro se* what he has styled as a complaint (ECF No. 1-1). Sustacha appears to seek to challenge certain conditions of his confinement at Lakes Crossing medical facility—which might implicate his civil rights under 42 U.S.C. § 1983—and the fact of his involuntary commitment—which might implicate his federal habeas corpus rights. 28 U.S.C § 2254(a).

Sustacha has not filed an application to proceed *in forma pauperis* or paid any filing fee, and his complaint or petition is not on any of this Court's forms. Accordingly, this matter has not been properly commenced. 28 U.S.C. § 1915(a)(2), Local Rules LSR1-2, 2-1, 3-1.

Accordingly, the present action will be dismissed without prejudice to the filing of a new habeas petition or civil rights complaint in a new action with either the applicable filing fee or a completed application to proceed *in forma pauperis* on the proper form.

It is therefore ordered that the Clerk detach and file the complaint (ECF No. 1-1).

It is further ordered that this action is dismissed without prejudice to the filing of a new petition or new complaint in a new action with a properly completed application form to proceed *in forma pauperis* or the filing fee.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

It is further ordered that petitioner's motion for release from facility (ECF No. 4) is denied as moot.

It is further ordered that a certificate of appealability is denied, as jurists of reason would not find the Court's dismissal of this improperly commenced action without prejudice to be debatable or incorrect.

It is further ordered that the Clerk send petitioner two (2) copies each of an application form to proceed *in forma pauperis* for incarcerated persons, a noncapital Section 2254 habeas petition form, a § 1983 civil rights complaint form, one copy of the instructions for each form, and a copy of the papers that he submitted in this action.

It is further ordered that the Clerk enter judgment accordingly and close this case.

DATED THIS 8th day of November 2017.


MIRANDA M. DU
UNITED STATES DISTRICT JUDGE