

UNITED STATES DISTRICT COURT FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

TORATIO DEVAL WILLIAMS :
Petitioner :
vs. : CIVIL NO. 1:CV-14-0741
WARDEN THOMAS, : (Judge Caldwell)
Respondent :

MEMORANDUM

I. Introduction

On March 27, 2014, Toratio Deval Williams, a federal inmate housed at United States Penitentiary in Lewisburg, Pennsylvania, filed a pro se petition for a writ of habeas corpus pursuant to 28 U.S.C. § 2241. In his petition, Williams requests that the court issue a limited writ of habeas corpus so that he may personally appear before the court to file a civil action and criminal complaint against various Bureau of Prisons employees. (Doc. 1, Pet.) He also requests to be placed in protective custody as he fears for his safety. (Id.)

For the reasons set forth below, the court will dismiss the petition.

II. Standard of Review

This matter is before the court for screening. 28 U.S.C. § 2243. The petition has been give preliminary consideration pursuant to Rule 4 of the Rules Governing Section 2254 Cases in the United States District Courts, 28 U.S.C. foll. § 2254 (1977) (applicable to § 2241 petition under Rule 1(b)). See Patton v. Fenton, 491 F. Supp. 156, 158–59 (M.D. Pa. 1979).

Federal law provides two main avenues of relief to incarcerated persons: a petition for habeas corpus and a civil-rights complaint. See *Muhammad v. Close*, 540 U.S. 749, 750, 124 S.Ct. 1303, 1304, 158 L.Ed.2d 32 (2004)(per curiam). “Although both § 1983 and habeas corpus allow prisoners to challenge unconstitutional conduct by state officers, the two are not coextensive either in purpose or effect.” *Leamer v. Fauver*, 288 F.3d 532, 540 (3d Cir. 2002). “Challenges to the validity of any confinement or to particulars affecting its duration are the province of habeas corpus, *Preiser v. Rodriguez*, 411 U.S. 475, 500, 93 S.Ct. 1827, 36 L.Ed.2d 439 (1973); requests for relief turning on circumstances of confinement may be presented in a § 1983 action.” *Muhammad*, 540 U.S. at 750, 124 S.Ct. at 1304. “[W]hen the challenge is to a condition of confinement such that a finding in plaintiff’s favor would not alter his sentence or undo his conviction, an action under § 1983 is appropriate.” *Leamer*, 288 F.3d at 542.¹ In sum, federal habeas relief is unavailable unless the petition attacks “the validity of the continued conviction or the fact or length of the sentence.” *Leamer*, 288 F.3d 540.

III. *Background*

Williams claims Bureau of Prisons (BOP) employees “continue to beat/rough [him] up in handcuffs in the blindspots of the prison (i.e. places where theres (sic) no cameras), throw away [his] legal work, . . . and try to falsify assault charges” against him

¹ As § 1983 action applies only to state actions, it is not available to federal prisoners; the federal counterpart is an action under *Bivens v. Six Unknown Federal Narcotics Agents*, 403 U.S. 388, 91 S.Ct. 199, 29 L.Ed.2d 619 (1971), alleging deprivation of a constitutional right. In other words, actions under § 1983 and those under *Bivens* are identical save for the replacement of a state actor under § 1983 by a federal actor under *Bivens*. See *Brown v. Philip Morris, Inc.*, 250 F.3d 789, 801 (3d Cir. 2001).

because they know his sentence will expire in November 2014. (Doc. 1, Pet, ECF pp. 6-7). He also claims that staff are retaliating against him after they learned he was preparing to file a civil-rights action with the assistance of the Lewisburg Prison Project against several prison employees.

IV. *Discussion*

In the instant case, Williams does not seek either a speedier release from prison or a judicial determination that necessarily implies the unlawfulness of his incarceration. Rather, he seeks his temporary release from prison for the purpose of making a personal appearance before this court to file civil and criminal complaints concerning his conditions of confinement at USP-Lewisburg. Williams is not attacking his federal sentence as unlawful and is not implicating relief that may alter the length of his confinement. Thus, he cannot raise his claims via a § 2241 action. As such, this court lacks habeas jurisdiction. *See McCall v. Ebbert*, 384 F. App'x 55, 57-58 (3d Cir. 2010)(nonprecedential)(district court properly dismissed a § 2241 petition that challenged a transfer to an increased security level along with conditions of confinement). Williams' claims are properly classified as conditions-of-confinement claims that would more appropriately be brought in a *Bivens* action. *See Bivens v. Six Unknown Named Agents of the Federal Bureau of Narcotics*, 403 U.S. 388, 91 S.Ct. 1999, 29 L.Ed.2d 619 (1971).

The court will, therefore, dismiss the petition without prejudice to any right
Petitioner may have to assert his claims in a properly filed *Bivens* action.²

An appropriate order follows.

/s/ William W. Caldwell
William W. Caldwell
United States District Judge

Date: May 12, 2014

² The Court expresses no opinion as to the merits, if any, of any civil-rights claim
Williams may file based on the facts asserted in the instant petition.