

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF WISCONSIN

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CHRIS J. JACOBS, III,

Petitioner,

v.

PETER HUIBREGTSE, Warden,  
Wisconsin Secure Program Facility,

Respondent.

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ORDER

09-cv-0652-bbc

Chris J. Jacobs, III, has filed an application for a writ of habeas corpus pursuant to 28 U.S.C. § 2254. I have granted his application for leave to proceed *in forma pauperis* in a separate order. The petition is before the court for preliminary review under Rule 4 of the Rules Governing Section 2254 Cases.

In the petition, petitioner alleges that prison staff are depriving him of adequate food, but this is a complaint about the conditions of his custody, rather than the fact or duration of it. Such complaints are not properly brought in a habeas petition. Preiser v. Rodriguez, 411 U.S. 475, 486-87 (1973). If petitioner wants to pursue this claim, he must file a civil lawsuit under 42 U.S.C. § 1983.

ORDER

IT IS ORDERED that the petition of Chris Jacobs, III for a writ of habeas corpus is  
DISMISSED WITHOUT PREJUDICE.

Entered this 17<sup>th</sup> day of December, 2009.

BY THE COURT:

/s/

BARBARA B. CRABB  
District Judge