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**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA**

DANIEL SWEENEY,

Petitioner,

v.

JUAN HERRERA and KIM BEAKEY,

Respondents.

Case No.: CV 20-04247-CJC(JEMx)

**ORDER GRANTING RESPONDENTS'
MOTION TO DISMISS [Dkt. 9] AND
DISMISSING PETITIONER'S
EMERGENCY PETITION FOR WRIT
OF HABEAS CORPUS [Dkt. 2]**

I. INTRODUCTION

On May 11, 2020, Petitioner Daniel Sweeney filed this Emergency Petition for Writ of Habeas Corpus pursuant to 28 U.S.C. § 2241 and request for compassionate release pursuant to 18 U.S.C. § 3582(c)(1)(A). (Dkt. 1 [Petition, hereinafter “Pet.”]; Dkt. 2 [Motion, hereinafter “Mot.”].) Petitioner is currently in custody at the at the Orion

1 Residential Reentry Center (“Orion RRC”) in Van Nuys, California. (Mot. at 1–3.)
2 Respondents Juan Herrera, Residential Relocation Manager of the Federal Bureau of
3 Prisons (“BOP”) for the District of Los Angeles, and Kim Beakey, BOP Regional
4 Reentry Administrator, move to dismiss the Petition for lack of jurisdiction. (Dkt. 9
5 [hereinafter “MTD”].) For the following reasons, Respondents’ motion to dismiss is
6 **GRANTED**, the Petition is **DENIED**, and this case is **DISMISSED**.

7 8 **II. BACKGROUND**

9
10 In June 2016, Petitioner was convicted in this District before Judge John A.
11 Kronstadt for making a false statement in a passport application. *United States v. Daniel*
12 *Sweeney*, No. 8:15-CR-00103-JAK, Judgment, Dkt. 78 (C.D. Cal. Sept. 30, 2016). Judge
13 Kronstadt sentenced Petitioner to six months’ imprisonment followed by three years of
14 supervised release. *Id.* Under the terms of his supervised release, Petitioner was ordered
15 not to commit another federal, state, or local crime. *Id.* However, after his release,
16 Petitioner was convicted of assault with force likely to produce great bodily injury in
17 violation of California Penal Code § 245(a)(4) in Orange County Superior Court. *See id.*,
18 Dkt. 94. In response, Judge Kronstadt revoked Petitioner’s supervised release and
19 imposed a 24-month term of imprisonment to run consecutively with any state sentence.
20 *Id.*, Dkt. 99.

21
22 Petitioner is currently serving the final four months of the resulting federal
23 sentence at Orion RRC, a federally contracted residential reentry facility, or “halfway
24 house,” that serves federal and state prisoners. (Mot. at 2.) According to Petitioner,
25 Orion RRC houses approximately 100 inmates, all of whom are allowed to leave the
26 Center for jobs, job training, and family and medical visits. (*Id.*) Petitioner alleges that
27 Orion RRC has not implemented federal, state, and local public health guidelines for
28 mitigating the spread COVID-19 inside detention facilities. (*Id.*) Specifically, he alleges

1 that Orion RRC requires residents to sleep and live in close quarters, forces them to clean
2 bathrooms and common areas without proper equipment, does not observe social
3 distancing protocols, does not have on-site medical staff, does not screen residents for
4 COVID-19, and does not provide inmates with masks, hand sanitizer, or other hygienic
5 products. (*Id.* at 2–3, 5–6.)¹

6 7 **III. DISCUSSION**

8
9 Petitioner argues that these conditions violate his Eighth Amendment right against
10 cruel and unusual punishment and seeks immediate release from federal custody pursuant
11 to 28 U.S.C. § 2241 and/or 18 U.S.C. § 3582(c)(1)(A). (*Id.* at 8–9.) The Court finds that
12 it lacks jurisdiction to consider the merits of Petitioner’s claim under either provision.

13 14 **A. Immediate Release Under 28 U.S.C. § 2241**

15
16 Section 2241 allows “the Supreme Court, any justice thereof, the district courts and
17 any circuit judge” to consider a writ of habeas corpus “within their respective
18 jurisdictions,” from a person claiming to be “in custody in violation of the Constitution or
19 laws or treaties of the United States.” 28 U.S.C. §§ 2241(a) and (c)(3). A district court
20 considering an application for a writ of habeas corpus shall “award the writ or issue an
21 order directing the respondent to show cause why the writ should not be granted, unless it
22 appears from the application that the applicant or person detained is not entitled thereto.”
23 28 U.S.C. § 2243. The Court may summarily dismiss a habeas petition if “it plainly
24 appears from the petition and any attached exhibits that the petitioner is not entitled to
25

26
27 ¹ Respondents dispute these allegations and assert that “Orion RRC maintains robust screening, social
28 distancing, sanitation, and education practices.” (MTD at 6.) Specifically, Respondents assert that new
inmates are screened for COVID-19 symptoms, that sleeping and seating areas are spaced six feet apart,
and that residents receive free masks and hand sanitizer. (*Id.* at 6–7.)

1 relief in the district court.” *See* Rules Governing Section 2254 Cases in the United States
2 District Courts (“Habeas Rules”) at R. 4.

3
4 Federal law “opens two main avenues to relief on complaints related to
5 imprisonment”—a petition for habeas corpus and a civil rights complaint. *Muhammad v.*
6 *Close*, 540 U.S. 749, 750 (2004). Habeas petitions are “the exclusive vehicle” for claims
7 fall within “the core of habeas corpus”—that is, claims challenging “the fact or duration
8 of the conviction or sentence.” *See Nettles v. Grounds*, 830 F.3d 922, 927, 934 (9th Cir.
9 2016) (en banc). By contrast, a civil rights action is the “proper remedy” for a claimant
10 asserting “a constitutional challenge to the conditions of his prison life, but not to the fact
11 or length of his custody.” *See Preiser v. Rodriguez*, 411 U.S. 475, 499 (1973); *see also*
12 *Nettles*, 830 F.3d at 927 (holding that a civil rights action is the “exclusive remedy” for
13 such a challenge); *Green v. Fox*, 2015 WL 4932822, at *3 (C.D. Cal. Aug. 17, 2015)
14 (explaining that “challenges to a prisoner’s conditions of confinement must be brought
15 through a civil rights action, rather than through a habeas corpus petition”), *judgment*
16 *entered*, 2015 WL 4932823 (C.D. Cal. Aug. 17, 2015), *aff’d*, 703 F. App’x 458 (9th Cir.
17 2017). The key inquiry is whether success on Petitioner’s claim would “necessarily lead
18 to immediate or speedier release.” *See Nettles*, 830 F.3d at 934. If success would *not*
19 necessarily lead to expedited release, the claim falls outside the core of habeas corpus and
20 is not cognizable under 28 U.S.C. § 2241. *See Schulze v. Kobayashi*, 2020 WL 2544407,
21 at *1 (D. Haw. May 19, 2020) (citing *Nettles*, 830 F.3d at 935).

22
23 Petitioner challenges the conditions of his confinement under the Eighth
24 Amendment. Although he requests immediate release, his claims would not necessarily
25 lead to this remedy if successful. For example, the Court might determine that an
26 injunction requiring Orion RRC to come into compliance with state and federal
27 guidelines was the only appropriate remedy. *See id.* (finding that petitioner’s claim fell
28 outside the core of habeas corpus because success would not necessarily lead to

1 petitioner's release); *Bolden v. Ponce*, 2020 WL 2097751, at *2 (C.D. Cal. May 1, 2020)
2 (holding that petitioner's challenge to the conditions of his confinement during the
3 COVID-19 pandemic should have been asserted in a civil rights complaint and not in a
4 habeas petition, despite his request for immediate release); *Shook v. Apker*, 472 Fed.
5 App'x 702, 702–03 (9th Cir. 2012) (holding that, “[d]espite the relief he seeks,”
6 petitioner's challenges to the adequacy of medical care concerned “the conditions of his
7 confinement and are properly brought under *Bivens*,” not as a habeas petition).
8 Accordingly, Petitioner's claims are not cognizable under 28 U.S.C. § 2241.²

9 10 **B. Compassionate Release Under 18 U.S.C. § 3582(c)(1)(A)**

11
12 Petitioner also seeks compassionate release under 18 U.S.C. § 3582(c)(1)(A). (*See*
13 *Mot.* at 8–9.) This Court lacks jurisdiction to consider such a request. Under the First
14 Step Act of 2018, federal inmates may seek compassionate release directly from the
15 sentencing court if the BOP denies, or fails to timely address, an administrative request
16 for release. *See* 18 U.S.C. § 3582(c)(1). As relevant here, eligible claimants may seek
17 sentence reduction for “extraordinary and compelling reasons.” *Id.* § 3582(c)(1)(A).
18 However, based on the plain language of the statute, a request for compassionate release
19 can only be submitted to the BOP and the original sentencing court. *See id.*; *Bolden*,
20 2020 WL 2097751, at *2 (holding that only the original sentencing court can entertain
21 requests for compassionate release under § 3582(c)(1)(A)); *Thody v. Swain*, 2019 WL
22 7842560, at *2 (C.D. Cal. Nov. 26, 2019) (same); *Mohrbacher v. Ponce*, 2019 WL
23 161727, at *1 & n.1 (C.D. Cal. Jan. 10, 2019) (same); *United States v. Rala*, 954 F.3d
24 594, 595 (3d Cir. 2020) (same). Accordingly, this Court cannot consider Plaintiff's

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26 ² Although the Court has discretion to recharacterize a habeas petition as a civil rights complaint, *see*
27 *Nettles*, 830 F.3d at 936, the Court declines to do so here. If converted into such a complaint, the
28 Petition would be subject to the procedural and substantive requirements of the Prison Litigation Reform
Act (“PLRA”), which are not addressed by Petitioner. *See* 28 U.S.C. §§ 1915 1915A; 42 U.S.C.
§ 1997e. Notably, Petitioner has not specified whether he exhausted administrative remedies as required
by the PLRA. *See id.*

1 request for relief under 18 U.S.C. § 3582(c)(1)(A).³ Petitioner may submit this request to
2 the BOP and Judge Kronstadt.

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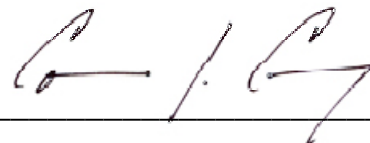
4 **IV. CONCLUSION**

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6 For the foregoing reasons, Respondents’ motion to dismiss is **GRANTED**, and this
7 action is **DISMISSED** for lack of jurisdiction. Nothing in this Order prohibits Petitioner
8 from asserting these claims in a civil rights action or from seeking compassionate release
9 under 18 U.S.C. § 3582(c)(1)(A) from the BOP and sentencing Court. *See Bolden*, 2020
10 WL 2097751, at *3 n.3.

11

12 DATED: June 8, 2020



13
14 CORMAC J. CARNEY

15 CHIEF UNITED STATES DISTRICT JUDGE

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28 ³ The Court also notes that the Petition does not address the exhaustion requirements of 18 U.S.C. § 3582(c)(1)(A).