

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF KANSAS

CHRISTOPHER PIERCE,

Petitioner,

v.

CASE NO. 13-3160-SAC

DOUGLAS WADDINGTON, et al.,

Respondents.

MEMORANDUM AND ORDER

This matter is a petition for habeas corpus filed by a prisoner at the Larned Correctional Mental Health Facility, Larned, Kansas. Petitioner proceeds pro se and seeks leave to proceed in forma pauperis.

Screening

A federal court must conduct a preliminary review of any case in which a prisoner seeks relief against a governmental entity or an officer or employee of such an entity. See 28 U.S.C. §1915A(a). Following this review, the court must dismiss any portion of the complaint that is frivolous, malicious, fails to state a claim upon which relief may be granted, or seeks monetary damages from a defendant who is immune from that relief. See 28 U.S.C. § 1915A(b).

The court has examined the petition, in which petitioner alleges sexual misconduct by staff members, the forcible administration of medication, and the denial of access to a state court following the entry of a permanent injunction. The relief sought is "federal court-oversight." (Doc. 1, p. 15.)

A petition for habeas corpus provides a remedy to challenge the

validity of a conviction or the execution of a criminal sentence. See *Montez v. McKinna*, 208 F.3d 862, 865 (10th Cir. 2000) (a challenge to the validity of a conviction is presented by a petition brought pursuant to 28 U.S.C. § 2254, and a challenge to the execution of a sentence is presented by a petition pursuant to 28 U.S.C. § 2241). Because petitioner's claims challenge the conditions of his confinement, he must proceed not in a petition for habeas corpus but in a civil rights action. See *Standifer v. Ledezma*, 653 F.3d 1276, 1280 (10th Cir. 2011) ("prisoners who wish to challenge only the conditions of their confinement...must do so through civil rights lawsuits filed pursuant to 42 U.S.C. § 1983...").

Accordingly, because this matter does not state a claim for habeas corpus relief, the court will dismiss the petition to allow petitioner to present his claims in a civil rights complaint.

IT IS, THEREFORE, BY THE COURT ORDERED petitioner's motion to proceed in forma pauperis (Doc. 2) is granted.

IT IS FURTHER ORDERED the petition for habeas corpus is dismissed without prejudice to the presentation of the claims in a civil rights action.

A copy of this order shall be transmitted to the petitioner.

IT IS SO ORDERED.

DATED: This 16th day of October, 2013, at Topeka, Kansas.

S/ Sam A. Crow
SAM A. CROW
U.S. Senior District Judge