

NOT RECOMMENDED FOR PUBLICATION

No. 24-3762

UNITED STATES COURT OF APPEALS
FOR THE SIXTH CIRCUIT

FILED

Apr 17, 2025

KELLY L. STEPHENS, Clerk

DAVID C. LETTIERI,)
Petitioner-Appellant,)
v.) ON APPEAL FROM THE UNITED
JESSICA SAGE, Warden,) STATES DISTRICT COURT FOR
Respondent-Appellee.) THE NORTHERN DISTRICT OF
) OHIO
)

O R D E R

Before: GILMAN, GRIFFIN, and THAPAR, Circuit Judges.

David C. Lettieri, a federal prisoner proceeding pro se, appeals a district court judgment denying his petition for a writ of habeas corpus filed under 28 U.S.C. § 2241. This case has been referred to a panel of the court that, upon examination, unanimously agrees that oral argument is not needed. *See* Fed. R. App. P. 34(a). We affirm.

Lettieri is serving a 240-month prison sentence for enticement of a minor, in violation of 18 U.S.C. § 2422(b). *United States v. Lettieri*, No. 1:21-cr-00020 (W.D.N.Y. June 11, 2024). He filed this habeas corpus petition in July 2024, alleging that he was not being provided with legal materials he needed and asserting violations of his First Amendment right to access the courts and his right to due process. He asserted that he wanted to use a typewriter to prepare legal documents, but had to wait to use the one that is available because other inmates also use it. He filed a grievance about the typewriter issue, but alleged that it was returned without a response. Lettieri claimed that the prison's failure to respond to his grievance denied him access to the courts and due process by preventing him from exhausting his administrative remedies, a prerequisite for filing a civil suit. As relief, he sought a court order for more prison typewriters.

The district court denied Lettieri's petition, finding that his claims must be brought in a civil-rights suit because they challenged "the conditions of his confinement," Not the manner of his sentence's execution. The court denied Lettieri's motion for reconsideration, which it liberally construed as a motion to alter or amend the judgment under Federal Rule of Civil Procedure 59(e).

On appeal, Lettieri challenges the denial of his habeas corpus petition, arguing that a § 2241 habeas corpus petition is the proper way to address his claim for denial of access to the courts. He argues that prisoners must be provided access to the courts and that limiting his access to resources and supplies has denied him that access. Lettieri moves to proceed in forma pauperis on appeal.

"We review de novo a district court's denial of a § 2241 habeas petition." *Martinez v. Larose*, 968 F.3d 555, 558 (6th Cir. 2020) (citation omitted). Section 2241 authorizes federal courts to grant habeas relief to a prisoner who "is in custody in violation of the Constitution or laws or treaties of the United States." 28 U.S.C. § 2241(c)(3). Immediate or speedier release from prison is "the heart of habeas corpus." *Preiser v. Rodriguez*, 411 U.S. 475, 498 (1973). In some circumstances, however, habeas corpus may be available for challenges to conditions of confinement, *see id.* at 499 (citing *Johnson v. Avery*, 393 U.S. 483 (1969)), such as when a federal prisoner's § 2241 petition seeks release from prison and claims "that no set of conditions would be constitutionally sufficient," *Wilson v. Williams*, 961 F.3d 829, 838 (6th Cir. 2020). But a petition challenging conditions of confinement and "seeking relief in the form of improvement of prison conditions or transfer," rather than release, may not be brought under § 2241. *Id.*; *see Luedtke v. Berkebile*, 704 F.3d 465, 466 (6th Cir. 2013) ("[Section] 2241 is not the proper vehicle for a prisoner to challenge conditions of confinement.").

Lettieri's claims were not appropriately pursued in a § 2241 habeas corpus petition. Lettieri did not mention his conviction and sentence, challenge his confinement, or seek release from prison. Instead, he challenged the conditions of his confinement—the lack of legal materials and access to a typewriter, and a failure to respond to his grievance. And he identified at least one way in which his prison conditions could be improved without his release—providing more prison

typewriters. The district court therefore properly concluded that Lettieri's prison-conditions claims could not be brought under § 2241. *See Wilson*, 961 F.3d at 838; *Luedtke*, 704 F.3d at 466.

We therefore **GRANT** the motion to proceed in forma pauperis for this appeal only and **AFFIRM** the district court's judgment.

ENTERED BY ORDER OF THE COURT


Kelly L. Stephens
Kelly L. Stephens, Clerk

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OHIO
EASTERN DIVISION

David C. Lettieri,)	CASE NO. 4:24 CV 1243
)	
Petitioner,)	JUDGE DONALD C. NUGENT
)	
v.)	
)	
Douglas Fender,)	<u>MEMORANDUM OPINION</u>
)	<u>AND ORDER</u>
)	
Respondent.)	

Pro se Plaintiff David C. Lettieri, a federal prisoner, has filed a Petition in this case for a Writ of Habeas Corpus under 28 U.S.C. § 2241. (Doc. No. 1.) In his Petition, he challenges prison conditions, including "not being provided" adequate legal materials. (*Id.* at 2, ¶ 5.)

Federal district courts must conduct an initial review of habeas corpus petitions. 28 U.S.C. § 2243; *Alexander v. Northern Bureau of Prisons*, 419 F. App'x 544, 545 (6th Cir. 2011). A court must deny a petition "[i]f it plainly appears from the petition and any attached exhibits that the petitioner is not entitled to relief." Rule 4 of the Rules Governing Habeas Corpus Cases Under Section 2254 (applicable to petitions under § 2241 pursuant to Rule 1(b)). *See also Allen v. Perini*, 26 Ohio Misc. 149, 424 F.2d 134, 141 (6th Cir. 1970) (the district court has a duty to "screen out" habeas corpus petitions that lack of merit on their face).

The Court finds that the Petition must be dismissed. Federal prisoners may use 28 U.S.C. § 2241 to challenge the manner in which their sentence is being executed, such as the computation of their sentence credits or parole eligibility. *Capaldi v. Pontesso*, 135 F.3d 1122, 1123 (6th Cir. 1998) (citing *United States v. Jalili*, 925 F.2d 889, 893 (6th Cir. 1991)); *Wright v. United States Bd. of Parole*, 557 F.2d 74, 77 (6th Cir. 1977). But § 2241 "is reserved for challenges to the execution

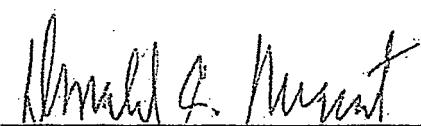
of a sentence . . . and may not be used to challenge the validity of a conviction or the conditions of confinement." *Velasco v. Lamanna*, 16 F. App'x 311, 314 (6th Cir. 2001) ("a § 2241 habeas petition is not the appropriate vehicle for challenging the conditions of [a prisoner's] confinement"). Prisoners challenging the conditions of their confinement must do so through a civil rights action. *Preiser v. Rodriguez*, 411 U.S. 475, 487-88 (1973).

Accordingly, here, because Petitioner challenges the conditions of his confinement, he is not entitled to any relief by way of § 2241. If Petitioner wishes to challenge conditions of his confinement, he must do so through a civil rights action. And to file such an action in this district, he is now required to pay the full \$405 filing fee. *See Lettieri v. Garver*, No. 4:24 CV 1219 (N.D. Ohio July 26, 2024) (finding Plaintiff's abusive litigation history constitutes an abuse of the privilege of proceeding *in forma pauperis* and prohibiting Plaintiff from filing any new actions in this district unless he pays the full filing fee).

Conclusion

For the foregoing reasons, the Petition in this matter is DENIED and this action is DISMISSED pursuant to 28 U.S.C. § 2243 and Rule 4 of the Rules Governing Habeas Corpus Cases. The Court further certifies that an appeal from this decision could not be taken in good faith.

IT IS SO ORDERED.


DONALD C. NUGENT
UNITED STATES DISTRICT JUDGE

Dated: July 31, 2024

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OHIO
EASTERN DIVISION

David C. Lettieri,)	CASE NO. 4:24 CV 1243
)	
Petitioner,)	JUDGE DONALD C. NUGENT
)	
v.)	
)	
Douglas Fender,)	<u>JUDGMENT ENTRY</u>
)	
)	
Respondent.)	

In accordance with the Court's accompanying Memorandum Opinion and Order, the Petition in this matter is DENIED and this action is DISMISSED. The Court further certifies that an appeal from this decision could not be taken in good faith.

IT IS SO ORDERED.



DONALD C. NUGENT
UNITED STATES DISTRICT JUDGE

Dated: July 31, 2024

No. 24-3762

UNITED STATES COURT OF APPEALS
FOR THE SIXTH CIRCUIT

FILED
Jun 11, 2025
KELLY L. STEPHENS, Clerk

DAVID C. LETTIERI,)
Petitioner-Appellant,)
v.)
JESSICA SAGE, Warden,)
Respondent-Appellee.)

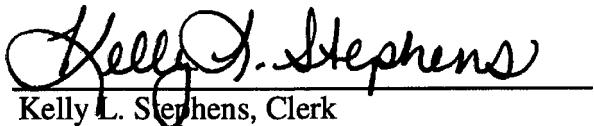
O R D E R

BEFORE: GILMAN, GRIFFIN, and THAPAR, Circuit Judges.

The court received a petition for rehearing en banc. The original panel has reviewed the petition for rehearing and concludes that the issues raised in the petition were fully considered upon the original submission and decision of the case. The petition then was circulated to the full court. No judge has requested a vote on the suggestion for rehearing en banc.

Therefore, the petition is denied.

ENTERED BY ORDER OF THE COURT



Kelly L. Stephens, Clerk