

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

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FLOYD W. SCHULZE,

Petitioner,

ORDER

v.

05-C-259-S

STEPHEN HOBART,

Respondent.

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Petitioner filed a petition for a writ of habeas corpus. He paid the filing fee. A petition under 28 U.S.C. § 2241 is to challenge the duration of a petitioner's confinement or the validity of his sentence.

In this petition petitioner specifically states he "is not challenging the fact of his confinement, rather he is challenging the condition of his confinement." Specifically, petitioner alleges that his Eighth Amendment rights are being violated by the respondent. The proper method for challenging the conditions of his confinement is a civil rights actions filed under 28 U.S.C. § 1331. The filing fee for said action is \$250.00.

Accordingly, petitioner's petition for a writ of habeas corpus will be dismissed. Should petitioner wish the Court to reopen the above action as a civil action under 28 U.S.C. § 1331 he must submit \$245.00. He would then have to serve the summons and complaint on the respondent.

Petitioner is advised that in any future proceedings in this matter he must offer argument not cumulative of that already provided to undermine this Court's conclusion that his petition for a writ of habeas corpus must be dismissed. See Newlin v. Helman, 123 F.3d 429, 433 (7<sup>th</sup> Cir. 1997).

ORDER

IT IS ORDERED that petitioner's petition for a writ of habeas corpus is DISMISSED without prejudice.

Entered this 2<sup>nd</sup> day of May, 2005.

BY THE COURT:

/s/

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JOHN C. SHABAZ  
District Judge