

UNITED STATES DISTRICT COURT
DISTRICT OF CONNECTICUT

2012 MAY -9 3:02

CRAIG HINES

v.

WARDEN SEMPLE, et al.

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PRISONER

Case No. 3:12cv613 (AWT)

RULING ON PETITION FOR WRIT OF HABEAS CORPUS

The petitioner states that he is a pretrial detainee in state custody. He filed this action *pro se* for a writ of habeas corpus pursuant to 28 U.S.C. § 2241 seeking medical care.

A 2241 petition may be used by a federal prisoner to seek medical care. See *Ilina v. Zickefoose*, 591 F. Supp. 2d 145, 149-50 (D. Conn. 2008). That is not true, however, for a state prisoner. Claims regarding denial of medical care or challenging conditions of confinement by state prisoners must be pursued in a civil rights action filed pursuant to 42 U.S.C. § 1983. See *Farrell v. Franklin*, 210 Fed. Appx. 807, 808 (10th Cir. 2006) (claims by state prisoner regarding inadequate medical care "should be raised in a civil-rights action, not an application for habeas relief"); *Murnahan v. McKune*, No. 08-3136, 2008 WL 2559301, at *1 (D. Kan. June 24, 2008) (holding that a state prisoner's claims regarding medical care may not be pursued in a federal habeas corpus action). Because the plaintiff is in state custody, his claim is not cognizable in a section 2241 action.

Accordingly, the petition for writ of habeas corpus [Doc. #1] is hereby **DISMISSED** without prejudice. See *Martin v. Overton*, 391 F.3d 710, 714 (6th Cir. 2004) (section 2241 petition seeking medical care properly dismissed without prejudice to raising claims in a civil rights action); see also *Stewart v. Tristan*, No. C 02-623 TEH(PR), 2002 WL 356649 (N.D. Cal. Mar. 5, 2002) (dismissing federal habeas action without prejudice to filing a civil rights complaint instead of recharacterizing the petition as a civil rights complaint). The petitioner may file a civil rights action in this court or a petition for writ of habeas corpus in state court to obtain the medical care he seeks.

It is so ordered.

Dated this 8th day of May 2012, at Hartford, Connecticut.

 /s/
Alvin W. Thompson
United States District Judge