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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

<p>PAUL EDWARD SHOOK, Jr.,</p> <p>Petitioner - Appellant,</p> <p>v.</p> <p>LIONEL C. APKER, Warden,</p> <p>Respondent - Appellee.</p>
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No. 11-15735

D.C. No. 4:10-cv-00264-FRZ

MEMORANDUM\*

Appeal from the United States District Court  
for the District of Arizona  
Frank R. Zapata, District Judge, Presiding

Submitted April 17, 2012\*\*

Before: LEAVY, PAEZ, and BEA, Circuit Judges.

Paul Edward Shook, Jr., a federal prisoner, appeals pro se from the district court's judgment dismissing his 28 U.S.C. § 2241 habeas petition. We have jurisdiction under 28 U.S.C. § 1291, and we affirm.

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\* This disposition is not appropriate for publication and is not precedent except as provided by 9th Cir. R. 36-3.

\*\* The panel unanimously concludes this case is suitable for decision without oral argument. See Fed. R. App. P. 34(a)(2).

Shook contends the district court erred by treating his claims of inadequate medical care as arising under *Bivens v. Six Unknown Fed. Narcotics Agents*, 403 U.S. 388 (1971), rather than section 2241. We disagree. Despite the relief he seeks, Shook's claims concern the conditions of his confinement and are properly brought under *Bivens*.

The district court acted within its discretion when it dismissed Shook's petition without prejudice for failure to comply with the court's order to file an amended complaint. *See Ferdik v. Bonzelet*, 963 F.2d 1258, 1260-61 (9th Cir. 1992).

**AFFIRMED.**