

DEC 31 2012

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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

WARREN ERIC ARMSTEAD,

Petitioner - Appellant,

v.

RICHARD IVES, Warden,

Respondent - Appellee.

No. 11-57047

D.C. No. 2:11-cv-06189-CAS

MEMORANDUM*

Appeal from the United States District Court
for the Central District of California
Christina A. Snyder, District Judge, Presiding

Submitted December 19, 2012***

Before: GOODWIN, WALLACE, and FISHER, Circuit Judges.

Federal prisoner Warren Eric Armstead appeals pro se from the district court's judgment denying his 28 U.S.C. § 2241 habeas petition. We have jurisdiction under 28 U.S.C. § 1291. We review the denial of a section 2241

* 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).

petition de novo and the district court's factual findings for clear error. *See Reynolds v. Thomas*, 603 F.3d 1144, 1148 (9th Cir. 2010). We affirm.

Armstead contends that his due process rights were violated in the prison disciplinary proceedings finding him guilty of failing to provide a urine sample. The record does not support his contention. Because Armstead received all the process that was due and some evidence supports the disciplinary findings, he is not entitled to relief. *See Superintendent v. Hill*, 472 U.S. 445, 455 (1985); *Wolff v. McDonnell*, 418 U.S. 539, 563-67 (1974).

Armstead also alleges that prison officials violated his First, Fourth, Eighth and Fourteenth Amendment rights in connection with the urine sample requested. The appropriate remedy for these claims lies in a civil rights action under *Bivens v. Six Unknown Named Agents*, 403 U.S. 388 (1971), rather than a section 2241 petition. *See Tucker v. Carlson*, 925 F.2d 330, 332 (9th Cir. 1991); *see also Hernandez v. Campbell*, 204 F.3d 861, 864 (9th Cir. 2000) (section 2241 petitions “challenge the manner, location, or conditions of a sentence’s execution”).

We decline to consider Armstead’s argument, raised for the first time on appeal, challenging the prison’s policies regarding urine samples. *See Padgett v. Wright*, 587 F.3d 983, 985 n.2 (9th Cir. 2009) (per curiam).

AFFIRMED.