

NOT FOR PUBLICATION

FILED

UNITED STATES COURT OF APPEALS

JUL 23 2024

FOR THE NINTH CIRCUIT

MOLLY C. DWYER, CLERK
U.S. COURT OF APPEALS

SERGIO SANCHEZ-CHAVEZ,

No. 22-55576

Petitioner-Appellant,

D.C. No. 2:21-cv-09087-DSF-MAR

v.

FELICIA PONCE, Warden,

MEMORANDUM*

Respondent-Appellee.

Appeal from the United States District Court
for the Central District of California
Dale S. Fischer, District Judge, Presiding

Submitted July 16, 2024**

Before: SCHROEDER, VANDYKE, and KOH, Circuit Judges.

Federal prisoner Sergio Sanchez-Chavez 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. Reviewing de novo, *see Pinson v. Carvajal*, 69 F.4th 1059, 1063 (9th Cir. 2023), *cert. denied sub nom. Sands v. Bradley*, 144

* This disposition is not appropriate for publication and is not precedent except as provided by Ninth Circuit Rule 36-3.

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

S. Ct. 1382 (2024), we affirm.

Sanchez-Chavez contends that the district court erred by concluding that his challenge to the conditions of his confinement during the COVID-19 pandemic was not cognizable in a § 2241 petition. He contends that his claim sounds in habeas because no set of conditions in Bureau of Prisons' custody would be constitutionally permissible and immediate release is the only available remedy.

Contrary to Sanchez-Chavez's suggestion, the fact that he is seeking immediate release is not sufficient to invoke habeas jurisdiction. *See id.* at 1072-73 (“[A] successful claim sounding in habeas necessarily results in release, but a claim seeking release does not necessarily sound in habeas.”). Moreover, Sanchez-Chavez has failed to allege facts sufficient to support his contention that “no set of conditions exist that would cure the constitutional violations” at his facility. *See id.* at 1075. The district court correctly dismissed this petition. *See id.* at 1073-75 (concluding that the district court lacked jurisdiction over a § 2241 petition seeking release on the basis of prison conditions arising from the COVID-19 pandemic).

AFFIRMED.