

[dkt. 6] is **denied and this action is summarily dismissed**. See *Preiser v. Rodriguez*, 411 U.S. 475, 490 (1973); *Waletzki v. Keohane*, 13 F.3d 1079, 1080 (7th Cir. 1994).

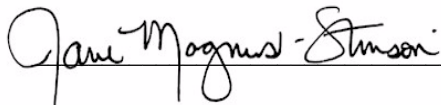
Nothing in this Entry prohibits Armstrong from raising his claims in a new civil action pursuant to the theory recognized in *Bivens v. Six Unknown Federal Narcotics Agents*, 403 U.S. 388 (1971). The Court, however, will not convert this petition for writ of habeas corpus pursuant to § 2241 into a civil rights complaint. The reason for this ruling is that minimal time has elapsed (approximately 20 days) between the filing of the petition for relief under § 2241 and this dismissal such that Armstrong should not be prejudiced (in fact, he seeks to file an amended complaint). Second, Armstrong should be aware of the consequences of filing a civil rights action as opposed to a petition for writ of habeas corpus. For example, in a civil action, his complaint will be screened pursuant to 28 U.S.C. § 1915A(b). If the complaint fails to state a claim upon which relief may be granted he will receive a strike under the Prison Litigation Reform Act. In addition, his claims will be subject to possible exhaustion defenses. He will also be required to pay the filing fee for a civil action which is \$350 if he is granted *in forma pauperis* status (otherwise the fee is \$400). The **clerk is directed** to include a copy of a civil rights complaint form along with Armstrong's copy of this Entry.

All pending motions [dks. 2 and 7] are **denied as moot**.

Judgment consistent with this Entry shall now issue.

IT IS SO ORDERED.

Date: 11/14/2013


Hon. Jane Magnus-Stinson, Judge
United States District Court
Southern District of Indiana

Distribution:

TELLY ARMSTRONG

Reg. No. 17695-028

TERRE HAUTE FEDERAL CORRECTIONAL INSTITUTION

Inmate Mail/Parcels

P.O. BOX 33

TERRE HAUTE, IN 47808