

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF KENTUCKY  
NORTHERN DIVISION AT ASHLAND

WILLIAM J. R. EMBREY,	)	
	)	
Petitioner,	)	Civil No. 0: 13-133-HRW
	)	
V.	)	
	)	
WARDEN M. SEPANEK,	)	<b>MEMORANDUM OPINION</b>
	)	<b>AND ORDER</b>
Respondent.	)	

\*\*\* \*\*

William J. R. Embrey is an inmate confined in the Federal Correctional Institution in Ashland, Kentucky. Proceeding without an attorney, Embrey has filed a petition for a writ of habeas corpus pursuant to 28 U.S.C. § 2241 [D. E. No. 1] and a “Request for Judicial Notice.” [D. E. No. 2]

In his petition, Embrey contends that his conviction for being a felon in possession of a firearm in violation of 18 U.S.C. § 922(g) in *United States v. Embrey*, No. 6:98-CR003095 (W.D. Mo. 1998) is void because, even as a felon, he had the constitutional right to possess a firearm under the Second Amendment, and because the Due Process Clause of the Fifth Amendment required a hearing before that right could be revoked, an event Embrey contends did not occur. [D. E. No. 1, pp. 2-7] Embrey’s “Request for Judicial Notice” asks the Court to take judicial notice of the

text of the Second and Fifth Amendments, and of legal conclusions that he perceives to be self-evident from the face of those provisions. [D. E. No. 2, pp. 1-2]

Embrey has made these same arguments in numerous habeas corpus petitions before this one, without success. As the Court noted in Embrey's last such effort, the Eighth Circuit rejected them on direct appeal; the trial court rejected them and denied him relief under 28 U.S.C. § 2255; and district courts in several states have denied petitions for relief under 28 U.S.C. § 2241 on the same grounds. *Embrey v. Sepanek*, No. 0:13-20-HRW (E.D. Ky. Mar. 12, 2013). The Court will therefore deny Embrey's latest petition as barred by the abuse of the writ doctrine, 28 U.S.C. § 2244(a); *McCleskey v. Zant*, 499 U.S. 467, 489 (1991), and as substantively meritless. *United States v. Embrey*, 250 F.3d 1181, 1184 (8th Cir. 2001).

Accordingly, **IT IS ORDERED** that:

1. William J. R. Embrey's petition for a writ of habeas corpus [D. E. No. 1] and "Request for Judicial Notice" [D. E. No. 2] are **DENIED**.
2. The Court will enter an appropriate judgment.
3. This matter is **STRICKEN** from the active docket.

This the 17<sup>th</sup> day of September, 2013.



Signed By:  
Henry R. Wilhoit, Jr.  
United States District Judge