

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

SC

**WO**

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF ARIZONA**

United States of America,	)	No. CV 12-1666-PHX-DGC (BSB)
Plaintiff,	)	No. CR 10-0400-PHX-DGC
v.	)	<b>ORDER</b>
Janice Sue Taylor,	)	
Defendant/Movant.	)	

Movant Janice Sue Taylor, who is confined in the Federal Prison Camp in Bryan, Texas, filed a *pro se* Motion to Vacate, Set Aside, or Correct Sentence by a Person in Federal Custody pursuant to 28 U.S.C. § 2255. In an Order filed on November 13, 2012, the Court ordered a response to the Motion and referred the matter to Magistrate Judge Bridget S. Bade for a report and recommendation. (Doc. 3.) On December 18, 2012, Movant filed a motion captioned as “Motion for Article III Judge and Removal of Magistrate Judge.” (Doc. 6.) That motion will be denied.

Movant asks that an Article III judge be assigned to her § 2255 proceedings. Movant also states that she does not consent to her § 2255 motion being referred to a magistrate judge.

As an initial matter, Movant’s § 2255 motion is before the undersigned, who is an Article III judge. A district judge may designate a magistrate judge to submit to him proposed findings of fact and recommendations for the disposition of applications for post-trial relief made by individuals convicted of criminal offenses, such as Movant. 28 U.S.C.

1 § 636(b)(1)(B). Further, under this District’s Local Rules, habeas corpus petitions are  
2 assigned to a district court judge and referred to a magistrate judge. LRCiv. 3.7(e). Consent  
3 of a § 2255 movant is not required.

4 When a § 2255 motion is referred to a magistrate judge, the magistrate judge considers  
5 the parties’ filings and issues a report and recommendation to this Court. The parties are  
6 afforded the opportunity to make objections to the report and recommendation. This Court  
7 will consider the parties’ objections, if any, and will determine whether to adopt or reject the  
8 report and recommendation. Thus, this Court, not Magistrate Judge Bade, will decide  
9 whether to grant or deny Movant relief after affording Movant an opportunity to raise  
10 objections. Movant’s motion will be denied.

11 **Warnings**

12 **A. Address Changes**

13 Movant must file and serve a notice of a change of address in accordance with Rule  
14 83.3(d) of the Local Rules of Civil Procedure. Movant must not include a motion for other  
15 relief with a notice of change of address. Failure to comply may result in dismissal of this  
16 action.

17 **B. Copies**

18 Movant must serve Respondent, or counsel if an appearance has been entered, a copy  
19 of every document that he files. Fed. R. Civ. P. 5(a). Each filing must include a certificate  
20 stating that a copy of the filing was served. Fed. R. Civ. P. 5(d). Also, Movant must submit  
21 an additional copy of every filing for use by the Court. LRCiv 5.4. Failure to comply may  
22 result in the filing being stricken without further notice to Movant.

23 **C. Possible Dismissal**

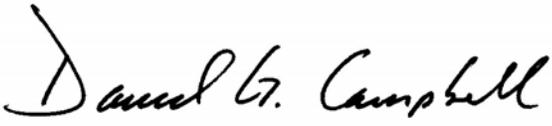
24 If Movant fails to timely comply with every provision of this Order, including these  
25 warnings, the Court may dismiss this action without further notice. See Ferdik v. Bonzelet,  
26 963 F.2d 1258, 1260-61 (9th Cir. 1992) (a district court may dismiss an action for failure to  
27 comply with any order of the Court).

28 / / /

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

**IT IS ORDERED** that Movant's Motion for Article III Judge and Removal of Magistrate Judge is **denied**. (Doc. 6.)

DATED this 18th day of January, 2013.



---

David G. Campbell  
United States District Judge