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UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA
EASTERN DIVISION

WALTER ELIJAH THODY,
Petitioner,
v.
UNITED STATES OF AMERICA,
Respondent.

No. ED CV 17-02563-PA (DFM)

MEMORANDUM OPINION
AND ORDER DISMISSING
PETITION WITHOUT
PREJUDICE

18 On December 29, 2017, Walter Elijah Thody (“Petitioner”) filed in this
19 Court a Petition for Writ of Habeas Corpus by a Person in Federal Custody
20 under 28 U.S.C. § 2241. Dkt. 1 (“Petition”). According to the Federal Bureau
21 of Prisons Inmate Locator, Petitioner is currently incarcerated at the Federal
22 Correctional Institution in Victorville, California. Petitioner’s sole claim is that
23 this Court should order his release because the United States District Court in
24 the Eastern District of Oklahoma has failed to respond promptly to Petitioner’s
25 filings in that district. *Id.* at 1.

26 Petitioner has a history of filing meritless habeas corpus petitions. In this
27 district, he has filed four previous petitions, all of which were dismissed
28 without prejudice: Case No. CV 15-1950 (September 2015), Case No. CV 15-

1 2013 (September 2015), Case No. CV 16-0161 (January 2016), and Case No.
2 CV 17-2024 (October 2017). Petitioner has also filed at least three habeas
3 petitions in other district courts, all of which were dismissed without prejudice.
4 See Baker v. Williams, No. 13-58, 2014 WL 1408074 (N.D. W. Va. Apr. 11,
5 2014); Thody v. O'Brien, No. 11-174, 2012 WL 4746684 (N.D. W. Va. Oct. 4,
6 2012); Thody v. Williamson, No. 05-0119, 2005 WL 1653173 (M.D. Pa. July
7 6, 2005).

8 As for the pending Petition, it is not cognizable. A state prisoner's
9 federal habeas claims must lie at "the core of habeas corpus," i.e., success
10 would necessarily demonstrate the invalidity of confinement or its duration.
11 Nettles v. Grounds, 830 F.3d 922, 931 (9th Cir. 2016) (en banc). Here,
12 Petitioner appears to challenge the district court's alleged delay in responding
13 to his filings in the Eastern District of Oklahoma. See Petition at 1 (noting that
14 court's "default"). Whatever remedy this Court could afford Petitioner with
15 respect to any such delay—and Petitioner has not explained what jurisdiction
16 this Court would have to direct the actions of another United States District
17 Court—it would not be to order his release or confinement shortened. As to
18 any substantive claims about the underlying conviction, this Court has
19 previously told Petitioner that such claims must be brought under 28 U.S.C. §
20 2255 before the sentencing court in Oklahoma. See Thody v. Tews, Case No.
21 CV 16-0161-PA (DFM), Dkt. 10.

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1 IT IS THEREFORE ORDERED that the Petition is DISMISSED
2 without prejudice. A certificate of appealability will not issue. Petitioner has
3 not shown “that jurists of reason would find it debatable whether the petition
4 states a valid claim of the denial of a constitutional right and that jurists of
5 reason would find it debatable whether the district court was correct in its
6 procedural ruling.” Slack v. McDaniel, 529 U.S. 473, 484 (2000).

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8 Dated: January 19, 2018

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11 PERCY ANDERSON
12 United States District Judge

13 Presented by:

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15 DOUGLAS F. McCORMICK
16 United States Magistrate Judge
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