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UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF CALIFORNIA

GEORGE KEALOHA WONG,  
Petitioner,  
v.  
FELICIA PONCE,  
Respondent.

No. 2:16-cv-00501 AC P

ORDER

Petitioner, a federal prisoner proceeding pro se, has filed a petition for a writ of habeas corpus pursuant to 28 U.S.C. § 2241. ECF No. 1. Petitioner has also filed several supplements to his petition and requests to expedite. ECF Nos. 5, 9, 10. The parties have consented to the jurisdiction of the undersigned magistrate judge for all purposes pursuant to 28 U.S.C. § 636(c) and Local Rule 305(a). ECF Nos. 3, 7.

I. Petition

Petitioner was convicted of possession with the intent to distribute methamphetamine in violation of 21 U.S.C. § 841. ECF No. 1 at 2. Petitioner contends that he is entitled to relief under 28 U.S.C. § 2241 because (1) the Federal Bureau of Prisons (BOP) violated 42 U.S.C. § 17541(a)(1)(G), the Second Chance Act (SCA), by failing to provide incentives to inmates participating in skills development programs; (2) the BOP violated petitioner’s due process rights by failing to provide him an evaluation and team meeting for placement in a Residential Reentry

1 Center (RRC); (3) the BOP improperly denied him RRC placement; and (4) the BOP retaliated  
2 against petitioner, thus violating his First Amendment rights, by ignoring his requests for case  
3 management assistance for reentry planning. ECF No. 1 at 3; ECF No. 5 at 2-6.

## 4 II. Discussion

5 Rule 4 of the Rules Governing Section 2254 Cases in the United States District Courts  
6 (Habeas Rules) requires the court to summarily dismiss a habeas petition “[i]f it plainly appears  
7 from the petition and any attached exhibits that the petitioner is not entitled to relief in the district  
8 court.”<sup>1</sup>

### 9 A. Due Process Violations

#### 10 1. Factual Background

11 When petitioner was approximately twenty months from his projected release date, he  
12 submitted a request to his case manager for a twelve-month RRC placement. ECF No. 9 at 7.  
13 Petitioner was informed that he would be evaluated when he was seventeen to nineteen months  
14 out from his projected release date. Id. One month later, petitioner submitted another request to  
15 his case manager asking for a follow up on his request for a twelve-month RRC placement. Id. at  
16 5. When he did not receive a response, petitioner submitted a request for informal resolution and  
17 was advised to see the previous response from his case manager (noting that he would be  
18 evaluated seventeen to nineteen months from his projected release date). Id. at 7. Petitioner then  
19 submitted a request for an administrative remedy, again requesting a twelve-month RRC  
20 placement and stating that he was nineteen months from his projected release date. Id. at 8. The  
21 request was rejected, advising petitioner that he would be evaluated soon. Id. Petitioner appealed  
22 the rejection of his administrative remedy request. Id. at 9. The appeal was rejected and  
23 petitioner was advised to follow the directions provided on his prior rejection. Id. at 10.  
24 Petitioner appealed to the Central Office and that appeal was also rejected. Id. at 11.

25 Approximately five months after petitioner submitted his first request for a twelve-month  
26 RRC placement, he received a notification that he had been approved for up to six months at an

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27 <sup>1</sup> The Rules Governing Section 2254 Cases are appropriately applied to proceedings undertaken  
28 pursuant to 28 U.S.C. § 2241. Habeas Rule 1(b).

1 RRC. Id. at 5. After receiving that notification, he filed a request for informal resolution seeking  
2 reconsideration for a twelve-month placement (id. at 12) and a request for administrative remedy,  
3 again requesting reconsideration (id. at 13). Both requests were denied and petitioner was  
4 informed that his unit team had conducted an individual assessment and determined that a  
5 placement of 151-180 days was sufficient for his RRC placement. Id. at 12-13. Petitioner then  
6 filed a regional administrative remedy appeal, alleging that he did not have a program review in  
7 December in accordance with 28 CFR § 524.11, that he did not receive case management  
8 services, and that he did not receive incentives for participating in skills development programs.  
9 ECF No. 9 at 14. Petitioner received a response stating that his concerns had already been  
10 addressed in response to his previous request. Id.

11 2. Sections 3621 and 3624

12 There are two statutory provisions governing the BOP's authority to transfer inmates in its  
13 custody to RRCs: 18 U.S.C. §§ 3621(b) and 3624(c). Section 3621 states "[t]he Bureau of  
14 prisons shall designate the place of the prisoner's imprisonment." 18 U.S.C. § 3621(b). Section  
15 3621 further lays out five factors that the BOP should consider when determining the appropriate  
16 placement for an inmate, including the nature and circumstance of the offense and the history and  
17 characteristics of the prisoner. 18 U.S.C. § 3621(b)(1)-(5). The BOP has the authority to place  
18 inmates in an RRC during the final months of their term of imprisonment. 18 U.S.C.  
19 § 3624(c)(1). Section 3624(c), amended in 2007 by the Second Chance Act, states that the BOP  
20 should ensure, "to the extent practicable," that a prisoner "spends a portion of the final months of  
21 [his] term (not to exceed 12 months), under conditions that will afford the prisoner a reasonable  
22 opportunity to adjust to and prepare for the reentry of that prisoner into the community" and that  
23 the conditions "may include a community correctional facility." Id. Section 3624(c) also  
24 establishes that the Director of the BOP shall issue regulations to ensure placements in RRCs are  
25 "conducted in a manner consistent with section 3621(b) of this title."<sup>2</sup> 18 U.S.C. § 3624(c)(6)(A).

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28 <sup>2</sup> The BOP regulations for pre-release community confinement are codified at 28 C.F.R. §§570.20-.22.

1                                   3. Right to an RRC Placement

2                   To the extent that petitioner claims a constitutional right to be housed in a particular place,  
3 such as an RRC, that claim is without merit. Moody v. Daggett, 429 U.S. 78, 88 n.9 (1976)  
4 (noting that “there is no legitimate statutory or constitutional entitlement [to prisoner  
5 classification or eligibility for rehabilitative programs] sufficient to invoke due process”); see also  
6 Meachum v. Fano, 427 U.S. 215, 224 (1976) (no constitutional right to be housed at a particular  
7 prison). The courts have consistently held that the Second Chance Act does not guarantee a  
8 placement for an inmate, but “only directs the Bureau of Prisons to consider placing an inmate in  
9 a RRC for up to the final twelve months of his or her sentence.” Lovett v. Hogsten, No. 09-5605,  
10 2009 WL 5851205, at \*2, 2009 U.S. Dist. LEXIS 28957, at \*4 (6th Cir. Dec. 29, 2009); Smith v.  
11 Sanders, No. CV 09-3083-GHK E, 2009 WL 2900317, at \*6 (report and recommendation and  
12 order adopting in full), 2009 U.S. Dist. LEXIS 82265, at \*18 (report and recommendation, order  
13 adopting in full at 2009 U.S. Dist. LEXIS 82261) (C.D. Cal. Sept. 3, 2009) (holding that the BOP  
14 retains discretionary authority over the duration of RRC placement); Stockton v. Adler, No. 1:08-  
15 CV-01594 OWW GSA HC, 2008 WL 5136133, at \*3, 2008 U.S. Dist. LEXIS 101986, at \*8  
16 (E.D. Cal. Dec. 8, 2008) (noting that there is no statutory or constitutional right to an immediate  
17 RRC assessment or transfer); Creager v. Chapman, No. 4:09-CV-713-A, 2010 WL 1062610, at  
18 \*3, 2010 U.S. Dist. LEXIS 26843, at \*7 (N.D. Tex. Mar. 22, 2010) (finding that “nothing in the  
19 Second Chance Act or § 3621(b) entitles [petitioner] or any other prisoner to any guaranteed  
20 placement in a residential reentry center”). Petitioner’s disagreement with the BOP’s  
21 recommendation not to transfer him to an RRC until his final six months, rather than for the  
22 twelve-month period he requested, does not establish a constitutional violation. Since petitioner  
23 has no constitutional right to placement in an RRC, there is no due process violation.

24                                   4. Program Statement Violations

25                                   i. Right to Incentives

26                   Petitioner asserts that the BOP failed to comply with the Second Chance Act, 42 U.S.C. §  
27 17541, because it failed to provide incentives for inmates participating in skill development  
28 programs (ECF No. 1 at 3) and that such “[i]ncentives could include the maximum allowable

1 period in a community correction center” (ECF No. 5 at 2). He further alleges that the BOP  
2 failed to follow their own program statement, P5330.11(2.4.8.)(b), which states that the Warden is  
3 strongly encouraged to approve placement in an RRC for the maximum period of time for  
4 inmates who successfully complete the non-residential drug abuse program. *Id.* at 3. He states  
5 that he actively participated in all programs offered at the prison and the BOP must provide  
6 incentives for such participation, such as placement in an RRC for the maximum allowable  
7 period. *Id.* at 2.

8 “[T]he Second Chance Act does not mandate that the [BOP] designate those prisoners  
9 who participate in skills development programs for the full twelve months of RRC placement as  
10 an incentive for such participation.” Arnett v. Washington-Adduci, No. CV 11-5898-JAK(E),  
11 2011 WL 6951848, at \*8, 2011 U.S. Dist. LEXIS 151387, at \*29 (C.D. Cal. Nov. 15, 2011)  
12 (citing 42 U.S.C. § 17541(a)(2)(A) and collecting cases); Richardson v. Dir. for Fed. Bureau of  
13 Prisons, 434 F. App’x 121, 122 (3d Cir. 2011) (holding that the Second Chance Act does not  
14 require that any particular incentives be given for prisoner participation in skills development  
15 programs). While the Second Chance act requires the BOP to establish incentives, it does not  
16 require that any particular incentive be established. See 42 U.S.C. § 17541(a)(1)(G) and (2). The  
17 BOP’s program statement also does not entitle petitioner to maximum RRC placement. Petitioner  
18 alleges that under the program statement the Warden is “strongly encouraged,” not mandated, to  
19 approve inmates such as himself for twelve-month RRC placements. ECF No. 5 at 3.

20 Because maximum RRC placement as an incentive is discretionary under the Second  
21 Chance Act, allegations that petitioner was improperly denied such placement as an incentive or  
22 that the BOP violated the Second Chance Act by not requiring such an incentive, do not state a  
23 claim upon which relief may be granted. Gutierrez-Chavez v. I.N.S., 298 F.3d 824, 827 (9th Cir.  
24 2002), amended, 337 F.3d 1023 (9th Cir. 2003) (noting that habeas relief is not available to  
25 challenge purely discretionary decisions). Moreover, even if the program statement mandated  
26 twelve-month placement in an RRC under specified circumstances, failure to comply would not  
27 warrant habeas relief. Reeb v. Thomas, 636 F.3d 1224, 1227 (9th Cir. 2011) (holding that “[a]  
28 habeas claim cannot be sustained based solely upon the BOP’s purported violation of its own

1 program statement because noncompliance with a BOP program statement is not a violation of  
2 federal law”).

3 ii. Right to a Timely Individual Assessment for RRC Placement

4 Petitioner also alleges that his due process rights were violated because he was not  
5 provided an evaluation for RRC placement seventeen to nineteen months prior to his projected  
6 release date. ECF No. 1 at 3; ECF No. 5 at 3. He states that a memorandum issued by the BOP  
7 on April 14, 2008, “provides that the BOP must review inmates for pre-release placements 17 to  
8 19 months before their projected release dates.” ECF No. 5 at 3.

9 Petitioner does not allege that he was not provided an individual assessment. Instead, he  
10 asserts that the assessment he received was not timely and that it did not comply with procedural  
11 requirements. ECF No. 1 at 3; ECF No. 5 at 3-4. Specifically, petitioner alleges that an  
12 individual RRC assessment did not take place on December 15, 2015, which would have been  
13 approximately seventeen months before his projected release date, because he was not evaluated  
14 in person and did not speak with BOP staff regarding the assessment. ECF No. 5 at 5; ECF No. 9  
15 at 3. He asserts that the evaluation did not take place until two months later on February 10,  
16 2016. ECF No. 5 at 4.

17 Even if the BOP failed to conduct the assessment within the timeframe specified in its  
18 program statement, this would not violate due process. Like the program statement above, the  
19 BOP memorandum is not a federal law and therefore petitioner has no constitutional right to an  
20 individual RRC assessment seventeen to nineteen months prior to his projected release date.  
21 Moreover, if the court accepts as true that the assessment did not take place until February 10,  
22 2016, it was still conducted approximately fifteen months before petitioner’s projected release  
23 date. ECF No. 9 at 21. This means it was conducted sufficiently in advance that petitioner was  
24 capable of being considered for a twelve-month placement.

25 Since petitioner was provided with an individual assessment in sufficient time to allow for  
26 a twelve-month placement had it been deemed appropriate and BOP memoranda are not federal  
27 law, petitioner’s claim that the BOP violated his due process rights by failing to provide a timely  
28 RRC assessment must be denied.

1                                   iii. Right to a Team Meeting

2                   Petitioner claims that his program reviews were not properly conducted because he was  
3 not provided with forty-eight hours' notice before reviews, reviews were conducted only by the  
4 case manager, and he did not have the opportunity to discuss decisions such as RRC placement,  
5 all in violation of 28 C.F.R. § 524.11. ECF No. 5 at 5. The failure to comply with these  
6 procedural requirements appears to be the basis of petitioner's claim that an individual assessment  
7 did not take place on December 15, 2015. Id. at 6.

8                   Petitioner alleges that the failure to convene a classification team meeting to discuss an  
9 RRC placement as part of his program review violated his due process rights. ECF No. 1 at 3;  
10 ECF No. 5 at 3, 5. Petitioner notes that after his request for administrative remedy seeking a  
11 twelve-month RRC placement was rejected, he filed a request to the Camp Administrator  
12 requesting a team meeting to discuss an RRC placement, but the meeting was not provided. ECF  
13 No. 5 at 3. Notably, the BOP classification and program review is distinguishable from  
14 individual assessments. According to 28 C.F.R. § 524.11, inmates shall be provided with a  
15 program review at least once every 180 calendar days and the inmates must be notified at least  
16 forty-eight hours in advance. 28 C.F.R. § 524.11(a)(2), (b)(1). The regulation also provides that  
17 the inmate is expected to attend all program reviews. 28 C.F.R. § 524.11(b)(3). However, these  
18 regulations only apply to program reviews and not to individual assessments for RRC placement,  
19 which are controlled by 18 U.S.C. § 3621(b). Furthermore, the memorandum that petitioner  
20 submits from the Assistant Director of the Correctional Programs Division regarding RRC  
21 placements states only that individual assessments occur *as part of* the inmate program review  
22 process. ECF No. 9 at 15. Nothing in the memorandum or the regulation requires that the inmate  
23 be present at the individual assessment, nor do they require that the individual assessment occur  
24 during the program review meeting itself. The criteria that must be considered for the individual  
25 assessment also do not require petitioner's presence or input. See 18 U.S.C. § 3621(b). Thus,  
26 even if petitioner's program reviews were not properly conducted, this failure would not support  
27 petitioner's challenge to the RRC assessment because the program review did not determine  
28 whether petitioner was eligible for an RRC placement. Instead, the RRC placement

1 determination was made during the individual assessment, which petitioner was not statutorily or  
2 constitutionally required or entitled to attend.

3 Nothing in the BOP program statements excerpts and memorandum provided by petitioner  
4 or the Code of Federal Regulations requires the BOP to provide inmates with a team meeting  
5 upon request or to conduct in-person individual assessments. Instead, the regulations establish  
6 procedures for conducting program reviews, while the BOP program statements and  
7 memorandum provide guidance regarding conducting individual RRC assessments. The failure  
8 to follow regulations that govern a separate process does not violate petitioner's rights as to an  
9 individual assessment under 18 U.S.C. § 3621(b). Moreover, even if the BOP program  
10 statements required an in-person individual assessment, they are not federal law and therefore  
11 failure to follow them does not violate federal law. Accordingly, the alleged failure to provide a  
12 team meeting or in-person individual assessment did not violate petitioner's due process rights.

#### 13 B. Judicial Review of BOP Decisions

14 Petitioner's claim that he was improperly denied a twelve-month RRC placement also  
15 fails. The courts have uniformly found that habeas review of RRC placement determinations by  
16 the BOP is not permitted. Reeb, 636 F.3d at 1227-28 (finding that permitting prisoners to  
17 challenge the BOP's discretionary determinations would be inconsistent with 18 U.S.C. § 3625);  
18 Geiger v. Adler, No. 1:10-cv-00715-AWI-JLT HC, 2011 WL 5417093, at \*6, 2011 U.S. Dist.  
19 LEXIS 129453, at \*18 (E.D. Cal. Nov. 8, 2011) (collecting cases) (noting that the BOP has the  
20 sole authority to make RRC placement determinations, which are not reviewable in the district  
21 court pursuant to § 706(2)(A) of the Administrative Procedures Act); English v. Ives, No. 2:11-  
22 cv-0010 EFB P, 2012 WL 4038495, at \*6, 2012 U.S. Dist. LEXIS 130293, at \*16-17 (E.D. Cal.  
23 Sept. 12, 2012) (same); Khachatryan v. Milusnic, No. CV 13-2892-JSL (MAN), 2013 WL  
24 2251724, at \*2, 2013 U.S. Dist. LEXIS 72727, at \*4 (C.D. Cal. May 22, 2013) (finding that the  
25 court "may not second guess the BOP's individualized determination"); Arred v. Phillips, 2008  
26 WL 4219074, at \*3 & n.2, (N.D.W.Va. Sept. 15, 2008) (stating that the court lacks authority to  
27 order the BOP to afford a longer placement in community corrections once a decision is made).  
28 This court does not have the ability to review the BOP's discretionary recommendation to place

1 petitioner in an RRC for a six-month period, rather than the maximum twelve-month period  
2 petitioner requested.

3 C. Retaliation Claim

4 “Within the prison context, a viable claim of First Amendment retaliation entails five  
5 basic elements: (1) An assertion that a state actor took some adverse action against an inmate (2)  
6 because of (3) that prisoner’s protected conduct, and that such action (4) chilled the inmate’s  
7 exercise of his First Amendment rights, and (5) the action did not reasonably advance a legitimate  
8 correctional goal.” Rhodes v. Robinson, 408 F.3d 559, 567-68 (9th Cir. 2005).

9 Petitioner alleges that his case manager retaliated against him by ignoring his requests for  
10 assistance with reentry planning and by subsequently damaging his property because petitioner  
11 filed a grievance against him. ECF No. 1 at 3; ECF No. 5 at 2. Additionally, petitioner alleges  
12 that other BOP personnel retaliated against him by ignoring his requests for relief regarding case  
13 management services, ignoring his requests for a transfer to an RRC placement, and failing to  
14 communicate with him regarding his RRC assessment. Id. He appears to claim that the failure to  
15 respond to his requests for assistance contributed to the denial of a maximum RRC placement.  
16 The documentation petitioner submits in support of his claim indicates that petitioner submitted a  
17 request for informal resolution stating that he was dissatisfied with his team meeting because he  
18 was not provided the opportunity to communicate directly with staff who make program review  
19 decisions. ECF No. 9 at 19. Petitioner received a response indicating that his claims were  
20 unfounded, noting that petitioner voluntarily signed for his program review. Id. at 19. Petitioner  
21 continued to file grievances and appeals at multiple levels and he received responses to all of  
22 them. Id. at 20, 21, 27-32.

23 Petitioner fails to state a cognizable retaliation claim because his allegations do not  
24 support an inference that the case manager retaliated against him or that the BOP’s motivation in  
25 denying his requests for administrative remedies was retaliatory. Petitioner’s conclusory  
26 allegations of retaliation are not sufficient. Even if his case manager was ignoring his requests for  
27 services, simply ignoring his requests is an insufficient basis for a First Amendment retaliation  
28 claim because petitioner has not identified any protected conduct that caused the case manager’s

1 allegedly retaliatory conduct. Petitioner's other retaliation claims against the case manager allege  
2 that petitioner's property was damaged in retaliation for filing a grievance. Assuming that the  
3 case manager's search of petitioner's cell and the resulting property damage were motivated by a  
4 desire to retaliate against petitioner for filing a grievance, these claims are not properly before the  
5 court in habeas.

6 As for the allegations regarding the individuals responding to his grievances, there is also  
7 no evidence to support an inference that the rejections of petitioner's grievances and appeals by  
8 other BOP officials were retaliatory. Contrary to petitioner's allegations, his requests for  
9 administrative remedies were not ignored and he was provided with information for addressing  
10 his concerns, such as filing a tort claim regarding his damaged property (ECF No. 9 at 30) and  
11 submitting a request to his unit team for an RRC evaluation (ECF No. 9 at 32). Petitioner has  
12 failed to show that the retaliatory motive was a "substantial" or "motivating" factor behind the  
13 BOP's conduct. Brodheim v. Cry, 584 F.3d 1262, 1271 (9th Cir. 2009) (quoting Soranno's  
14 Gasco, Inc v. Morgan, 874 F.2d 1310, 1314 (9th Cir. 1989)).

15 Even if petitioner had alleged sufficient facts to support an inference of retaliation, he has  
16 not demonstrated that either the case manager or the BOP's conduct was enough to chill his First  
17 Amendment rights. Not every allegedly adverse action is sufficient to support a claim for  
18 retaliation. Watison v. Carter, 668 F.3d 1108, 1114 (9th Cir. 2012) (harm must be "more than  
19 minimal" (quoting Rhodes, 408 F.3d at 568, n.11)); see also Bell v. Johnson, 308 F.3d 594, 603  
20 (6th Cir. 2002) ("[S]ome adverse actions are so de minimis that they do not give rise to  
21 constitutionally cognizable injuries." (citing Thaddeus-X v. Blatter, 175 F.3d 378, 396 (6th Cir.  
22 1999))). It is clear from the documentation petitioner provided and petitioner's filing of the  
23 petition in the instant action that the case manager's alleged disregard of his requests and the  
24 BOP's denials of his grievances has not prevented him from further pursuing First Amendment  
25 activities. In fact, petitioner continued to use the administrative appeal process to voice his  
26 grievances regarding his case manager's inaction, the BOP's alleged uncooperativeness, and his  
27 desire for a twelve-month RRC placement. Not only was petitioner not deterred, but an inmate of  
28 ordinary firmness would not be deterred by the denial of grievances from continuing to engage in

1 protected conduct. See Burgos v. Canino, 641 F. Supp. 2d 443, 455 (E.D. Pa. 2009) (“The mere  
2 denial of grievances does not rise to the level of adverse action sufficient to deter a person of  
3 ordinary firmness from exercising his constitutional rights.”); Dacey v. Hanks, No. 2:14-cv-2018  
4 JAM AC P, 2015 WL 4879627, at \*5, 2015 U.S. Dist. LEXIS 107487, at \*11-12 (Aug. 14, 2015,  
5 adopted in full Oct. 15, 2015<sup>3</sup>) (collecting cases) (“[D]enial of a grievance neither constitutes an  
6 adverse action that is more than de minimis nor is it sufficient to deter a prisoner of “ordinary  
7 firmness” from further First Amendment activities.).

8 In sum, petitioner’s retaliation claim fails because (1) his allegations do not support an  
9 inference of retaliatory intent, and (2) even if there was such intent, the denial of a grievance is  
10 insufficient to constitute an adverse action as a basis for a retaliation claim.

### 11 III. Summary

12 The BOP has the sole authority to decide the appropriate placement for inmates pursuant  
13 to 18 U.S.C. § 3621(b). The court cannot review the BOP’s decision that petitioner should only  
14 spend six months in an RRC, because judicial review of this decision is not allowed by 18 U.S.C.  
15 § 3625. Additionally, the BOP is not required to provide maximum RRC placement to prisoners  
16 who participate in skills development programs, and the failure to follow BOP program  
17 statements and memorandum does not establish a violation of federal law. Since petitioner has no  
18 constitutional or statutory right to a particular placement, a timely individual assessment, a team  
19 meeting upon request, or any particular incentives, the due process claims must be denied.

20 With regard to the retaliation claim, petitioner has failed to allege facts that show that  
21 either the case manager’s actions or the BOP’s actions were based on retaliatory motivation.  
22 Moreover, petitioner was not prevented from continuing to express his grievances because the  
23 denial of grievances would not stop an inmate of ordinary firmness. Since petitioner has failed to  
24 state a cognizable claim for retaliation, this claim must also be denied.

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28 <sup>3</sup> 2015 WL 6163444, 2015 U.S. Dist. LEXIS 140655.

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In accordance with the above, IT IS HEREBY ORDERED that:

1. Petitioner's motion to expedite (ECF No. 10) is granted to the extent this order addresses the pending petition for writ of habeas corpus.
2. The petition for writ of habeas corpus (ECF No. 1) is denied.

DATED: March 1, 2017

  
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ALLISON CLAIRE  
UNITED STATES MAGISTRATE JUDGE