

**NOT FOR PUBLICATION**

**UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF DELAWARE**

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QUEEN JAMES, Petitioner	:	
Relator on behalf of	:	
WILLIAM IVERY JAMES,	:	
	:	
Petitioner,	:	Civil Action
	:	09-277 (RMB)
v.	:	
	:	
JOHN R. OWEN, Corporate	:	<b><u>OPINION</u></b>
Entity and Holder of	:	
the Key,	:	
	:	
	:	
Respondent.	:	

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**APPEARANCES:**

QUEEN JAMES, Petitioner Relator pro se  
On Behalf of WILLIAM IVERY JAMES, Petitioner  
FCI Williamsburg  
Salters, South Carolina 29590

**Renée Marie Bumb, District Judge**

Petitioner Relator Queen James, ("Queen James"), filed a Petition for Emergency Writ of Habeas Corpus ("Petition") on behalf of William Ivery James, ("Petitioner"), an inmate currently confined at FCI Williamsburg in South Carolina. This Court will summarily dismiss the Petition for lack of jurisdiction and deny a certificate of appealability. See 28 U.S.C. § 2243; Rule 4, 28 U.S.C. foll. § 2255.

## I. BACKGROUND

Petitioner is serving a 120-month term of imprisonment imposed on August 13, 2002 by the United States District Court for the Southern District of Georgia, based on his guilty plea to one count of being a felon in possession of a firearm (18 U.S.C. § 924(a) and (f)). See United States v. James, Crim. No. 02-03(DHB)(S.D. Ga. Aug. 13, 2002). On April 22, 2009, Queen James executed a Petition for Emergency Writ of Habeas Corpus on behalf of Petitioner. (D.I. 1.) According to the Petition, Petitioner has been confined in "FCI Williamsburg" in Williamsburg County, South Carolina since "August 13, 2002." The Petition alleges that Respondent "is a corporation for profit" which is holding Petitioner "against his will, over his objection, and without his consent," because "no criminal action in the State of Georgia has been commenced against Petitioner by the filing of an affidavit/complaint, [or] by a competent fact witness, alleging the necessary and essential facts sufficient to constitute the elements of a crime that would invoke a lawful court's jurisdiction in the first instance." Id. at pp. 1-2. Petitioner, through Queen James, contends that the Court can review the instant Petition because it has original jurisdiction over Delaware corporations, and he asks the Court to "command Respondent . . . to immediately discharge [Petitioner]." Id. at p. 3.

## II. STANDARD OF REVIEW

A federal prisoner challenging the legality of his conviction or sentence must file a motion to vacate, correct, or modify a sentence pursuant to 28 U.S.C. § 2255 in the sentencing court. See 28 U.S.C. § 2255(a); Davis v. United States, 417 U.S. 333, 343 (1974); In re Dorsainvil, 119 F.3d 245, 249 (3d Cir. 1997). The proper respondent for a § 2255 motion is the United States of America. See Waksmunski ex rel. Korbe v. Mitchell, 2009 WL 499455 (W.D. Pa. Feb. 27, 2009). In turn, a federal prisoner challenging the manner in which his sentence is being executed must file a petition for the writ of habeas corpus pursuant to 28 U.S.C. § 2241 in the district of confinement. Rumsfeld v. Padilla, 542 U.S. 426, 446-47 (2004); see United States v. Jack, 774 F.2d 605, 607 n.1 (3d Cir. 1985)(a habeas corpus petition pursuant to § 2241 is appropriate in the district of confinement); Dupee v. United States, 2002 WL 31831388, at \*1 (E.D. Pa. Dec. 11, 2002). The proper respondent for a § 2241 petition is the warden of the institution where the petitioner is incarcerated at the time of filing. Rumsfeld, 542 U.S. at 444-46.

Federal courts are required to liberally construe pro se filings. See Royce v. Hahn, 151 F.3d 116, 118 (3d Cir. 1998). Nevertheless, a district court may summarily dismiss a habeas petition "if it plainly appears from the face of the petition,

any attached exhibits, and the record of prior proceedings that the moving party is not entitled to relief." See Rule 4(b), 28 U.S.C. foll. § 2255; see also 28 U.S.C. 2243 ("A court, justice or judge entertaining an application for a writ of habeas corpus shall . . . issue an order directing the respondent to show cause why the writ should not be granted, unless it appears from the face of the application that the applicant or person detained is not entitled thereto.")

### **III. DISCUSSION**

#### **A. Standing**

An "application for a writ of habeas corpus shall be in writing signed and verified by the person for whose relief it is intended or by someone acting in his behalf." 28 U.S.C. § 2242. An individual seeking to prosecute a habeas petition on behalf of another must "establish the requisite [Article III] standing to sue." Whitmore v. Arkansas, 495 U.S. 149, 154 (1990). Article III standing is a jurisdictional requirement, which a court is obligated to raise sua sponte. Storino v. Borough of Point Pleasant Beach, 322 F.3d 293, 296 (3d Cir. 2003); Desi's Pizza Inc. v. City of Wilkes-Barre, 321 F.3d 411, 420 (3d Cir. 2003).

It is well-settled that a pro se litigant may not act as an attorney for other individuals. See 28 U.S.C. § 1654; Alexander v. New Jersey State Parole Bd., 160 Fed. Appx. 249, 250 n.1 (3d Cir. 2005) (non-precedential); Harris v. Philadelphia Police Dep't, 2006 WL 3025882 (E. D. Pa. Oct. 20, 2006.); In the Matter

of Chojecki, 2000 WL 679000, at \*2 (E.D. Pa. May 22, 2000) (citing United States v. Shepard, 876 F. Supp. 214, 215 (D. Ariz. 1994) (“Although a non-attorney may appear in propria persona on his own behalf, that privilege is personal to him and he has no authority to appear as the attorney for anyone other than himself.”).) However, a third party may attain “next friend” standing to pursue habeas relief on behalf of a prisoner by demonstrating that the prisoner “is unable, usually because of mental incompetence or inaccessibility, to seek relief himself,” and that the third party has some “significant relationship” with the prisoner and is truly dedicated to best interests of the prisoner. Whitmore v. Arkansas, 495 U.S. 149, 162-64 (1990). The burden of proving “next friend” status rests with the moving party. Id. at 163.

In this case, an individual named Queen James filed the Petition on behalf of Petitioner. There is no indication that Queen James is admitted to the practice of law and acting as Petitioner’s attorney; rather, Queen James appears to be a pro se litigant who is improperly acting as Petitioner’s attorney.

In addition, Queen James has failed to establish that (s)he qualifies for “next friend” standing under Whitmore. First, Queen James has not demonstrated that (s)he is truly dedicated to the best interests of Petitioner and that (s)he has some “significant relationship” with Petitioner. Second, Queen James has not proven that Petitioner is unable to litigate his own case due to mental incapacity, lack of access to a court, or a similar

disability. See, e.g., Barlow v. Farber, 2006 WL 842422, at \*3 (D.N.J. Mar. 29, 2006). For these reasons, the Court concludes that Queen James does not have standing to pursue Petitioner's legal interests. Accordingly, the Court will dismiss the Petition for lack of subject matter jurisdiction.

#### **B. Wrong Court**

In turn, to the extent the instant Petition challenges the legality of Petitioner's conviction and sentence under 28 U.S.C. § 2255, the Court does not have jurisdiction over this proceeding because the Court did not impose Petitioner's conviction and sentence.<sup>1</sup> To the extent Petitioner is challenging the execution of his sentence pursuant to 28 U.S.C. § 2241, the Court does not have jurisdiction to review the pending Petition because Petitioner is not confined in this district. Accordingly, the Court will also dismiss the Petition for lack of jurisdiction under § 2255 and § 2241.<sup>2</sup>

#### **IV. CERTIFICATE OF APPEALABILITY**

Finally, to the extent the instant Petition constitutes a § 2255 motion, the Court must decide whether to issue a certificate of appealability. 28 U.S.C. § 2253; See United States v.

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<sup>1</sup>The Court also notes that the Petition does not list the proper respondent for a § 2255 motion.

<sup>2</sup>Given the Court's prior determination that Queen James lacks standing to pursue habeas relief on behalf of Petitioner, the Court declines to transfer the case to a federal court in South Carolina or in Georgia because such a transfer would not be in "furtherance of justice." 28 U.S.C. § 2241(d); 28 U.S.C. § 1406(a).

Cepero, 224 F.3d 256, 265-66 (3d Cir. 2000) ("federal prisoner appeals from 2241 proceedings, however, are not governed by 2253's certificate of appealability requirement."); 3d Cir. L.A.R. 22.2 (2008). A certificate of appealability is appropriate when a petitioner makes a "substantial showing of the denial of a constitutional right" by demonstrating "that reasonable jurists would find the district court's assessment of the constitutional claims debatable or wrong." 28 U.S.C. § 2253(c)(2); Slack v. McDaniel, 529 U.S. 473, 484 (2000).

The Court has concluded that it lacks jurisdiction to review the instant Petition. In the Court's view, reasonable jurists would not find this conclusion to be debatable. Accordingly, the Court declines to issue a certificate of appealability.

#### **V. CONCLUSION**

For the reasons set forth above, the Court dismisses the Petition for Emergency Writ of Habeas Corpus in its entirety for lack of jurisdiction. The Court denies a certificate of appealability.

An appropriate Order accompanies this Opinion.

s/Renée Marie Bumb  
**Renée Marie Bumb**  
**United States District Judge**

Date: August 7, 2009

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF DELAWARE

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QUEEN JAMES, Petitioner	:	
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WILLIAM IVERY JAMES,	:	
	:	
Petitioner,	:	Civil Action
	:	09-277 (RMB)
v.	:	
	:	
JOHN R. OWEN, Corpportate	:	<u>ORDER</u>
Entity and Holder of	:	
the Key,	:	
	:	
	:	
Respondent.	:	

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For the reasons stated in the Opinion filed herewith,

IT IS on this 7th day of August 2009,

**ORDERED** that the Petition for Emergency Writ of Habeas Corpus (D.I. 1.) is **DISMISSED** for lack of jurisdiction; and it is further

**ORDERED** that a certificate of appealability is **DENIED**, see 28 U.S.C. 2253(c)(2); and it is further

**ORDERED** that the Clerk shall serve copies of this Order and the accompanying Opinion upon Petitioner by regular U.S. mail and close the file in this matter.

s/Renée Marie Bumb  
**Renée Marie Bumb**  
United States District Judge