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UNITED STATES DISTRICT COURT NORTHERN DISTRICT OF INDIANA SOUTH BEND DIVISION

CHARLES KUCHEL,)
Petitioner,)
v.) CAUSE NO. 3:18-CV-15-PPS-MGC
WARDEN,)))
Respondent.	,

OPINION AND ORDER

Charles Kuchel, a prisoner without a lawyer, filed a habeas corpus petition to challenge the calculation of his sentences for criminal deviate conduct, criminal recklessness, criminal confinement, and battery under Cause No. SCR 83-47 and for criminal confinement and criminal deviate conduct under Cause No. SCR 83-43.

Following a jury trial in Cause No. SCR 83-43, on October 19, 1984, the Marshall County Superior Court sentenced Kuchel to fifty years of incarceration. Following a jury trial in Cause No. SCR 83-47, on March 17, 1988, the Marshall County Superior Court sentenced Kuchel to seventy years of incarceration.

Kuchel alleges that he has been incarcerated for nearly ten years beyond his proper release date and seeks immediate release from custody. However, this is not the only time Kuchel has filed a habeas petition to challenge the calculation of his sentence. He is currently proceeding on an identical claim in *Kuchel v. Warden*, 3:17-cv-871-PPS-

MGG (N.D. Ind. filed November 19, 2017). "The district court has broad discretion to dismiss a complaint for reasons of wise judicial administration whenever it is duplicative of a parallel action already pending in another federal court." *McReynolds v. Merrill Lynch & Co.*, 694 F.3d 873, 888 (7th Cir. 2012) (internal quotation marks omitted). "A suit is duplicative if the claims, parties, and available relief do not significantly differ between the two actions." *Id.* at 889. Because Kuchel proceeds on a claim in this case that duplicates one he is already pursuing in another case, this case is dismissed. However, I recognize the possibility that, by filing this petition, Kuchel attempted to amend his petition in *Kuchel v. Warden*, 3:17-cv-871, rather than open a new case. Therefore, I will order that the filings in this case be transferred to *Kuchel v. Warden*, 3:17-cv-871.

ACCORDINGLY:

- (1) The petition (ECF 2) is DISMISSED pursuant to Section 2254 Habeas Corpus Rule 4 because it is duplicative;
- (2) Charles Kuchel is DENIED a certificate of appealability pursuant to Section 2254 Habeas Corpus Rule 11;
- (3) Charles Kuchel is DENIED leave to appeal in forma pauperis pursuant to 28 U.S.C. § 1915(a)(3);
- (4) The Clerk is DIRECTED to transfer the filings in this case to *Kuchel v. Warden*, 3:17-cv-871; and
 - (5) The Clerk is DIRECTED to close this case.
 - SO ORDERED on January 29, 2018.

<u>/s Philip P. Simon</u>
Judge
United States District Court