

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF KENTUCKY  
NORTHERN DIVISION at ASHLAND

Eastern District of Kentucky  
**FILED**

SEP 24 2018

AT ASHLAND  
ROBERT R. GIBSON  
CLERK U.S. DISTRICT COURT

|                           |   |                           |
|---------------------------|---|---------------------------|
| GARY DEWITT ODOM,         | ) |                           |
|                           | ) |                           |
| Petitioner,               | ) | Civil No. 0: 18-91-HRW    |
|                           | ) |                           |
| v.                        | ) |                           |
|                           | ) |                           |
| UNITED STATES OF AMERICA, | ) | <b>MEMORANDUM OPINION</b> |
| ET AL.,                   | ) | <b>AND ORDER</b>          |
|                           | ) |                           |
| Respondents.              | ) |                           |

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On August 28, 2018, Gary Odom – an inmate in state custody – filed a petition for a writ of habeas corpus pursuant to 28 U.S.C. § 2241 in a separate case, *Odom v. United States*, No. 0: 18-CV-90-HRW (E.D. Ky. 2018), apparently to challenge the lodging of a federal detainer against him. [D. E. No. 1 therein] The Court denied that petition shortly thereafter, noting amongst other things that his claims appeared to be of a kind that ought to be asserted in his underlying criminal case. [D. E. No. 4 therein]

In early September Odom filed a motion in that case to reconsider the dismissal of his petition, asserting that a typographical error in the original petition led the Court to believe that he had committed a new offense while on supervised release, which he now contends occurred only after his term of supervised release

was concluded. [D. E. No. 5] Odom also filed a motion to amend his petition to correct the error, and tendered an amended petition. [D. E. No. 5-1; 5-2] The Court denied that motion shortly thereafter. [D. E. No. 7]

Unbeknownst to the Court, Odom had already sent his motion to amend his habeas corpus petition and an amended petition in a second, earlier letter. Odom also included with that letter a new motion to proceed *in forma pauperis* and a new certificate of inmate account. Because Odom did not heed the Court's earlier direction in Case Number 18-90 to include the case number with any document he filed with the Court, *see* D. E. No. 3 therein at pg. 1, and because he had included a new motion for *pauper* status, the Clerk of the Court construed Odom's proposed amended petition in his original case as a new habeas corpus petition, and docketed it accordingly in this action. [D. E. No. 1]

The foregoing history makes plain that the petition for a writ of habeas corpus filed in this case [D. E. No. 1] is duplicative of Odom's motion to amend his habeas corpus petition in the prior habeas action, Case Number 18-90. The Court will therefore dismiss this action without prejudice for administrative purposes, and will not assess the five-dollar habeas filing fee or address the motion to proceed *in forma pauperis*.

Accordingly, it is **ORDERED** as follows:

1. Gary Odom's "amended" petition for a writ of habeas corpus [D. E. No. 1] is **DENIED WITHOUT PREJUDICE** for administrative purposes.

2. Odom's motion to proceed *in forma pauperis* [D. E. No. 1-3] is **DENIED AS MOOT**.

3. Odom's motion to amend petition for a writ of habeas corpus [D. E. No. 3] is **DENIED AS MOOT**.

4. This action shall be **STRICKEN** from the active docket.

This the 24<sup>th</sup> day of September, 2018.



Signed By:  
***Henry R. Wilhoit, Jr.***  
United States District Judge