

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF KENTUCKY
SOUTHERN DIVISION
LONDON

JORDAN JERICHO BAUTISTA-GUNTER,)	
)	
Petitioner,)	Civil No. 6:17-cv-127-GFVT
)	
v.)	
)	
WARDEN, USP-MCCREARY,)	MEMORANDUM OPINION
)	&
Respondent.)	ORDER

*** **

Jordan Jericho Bautista-Gunter is an inmate at the United States Penitentiary – McCreary in Pine Knot, Kentucky. Proceeding without an attorney, Bautista-Gunter filed a petition for a writ of habeas corpus pursuant to 28 U.S.C. § 2241 [R. 1], and he indicated on the front of the petition that he wanted it to be “filed under seal.” [R. 1 at 1.] For the reasons set forth below, the Court will deny Bautista-Gunter’s request to seal his petition and also deny his petition without prejudice.

In January 2017, Bautista-Gunter was convicted of being a prohibited person in possession of a firearm in violation of 18 U.S.C. § 922(g) and carrying a weapon on an aircraft in violation of 49 U.S.C. § 46505. [R. 1 at 2.] Bautista-Gunter’s criminal case is currently pending on direct appeal before the United States Court of Appeals for the Fifth Circuit. *See United States v. Jordan Bautista-Gunter*, No. 17-50084 (5th Cir. 2017).

Even though Bautista-Gunter’s direct appeal remains pending, he went ahead and filed his § 2241 petition with this Court. [R. 1.] In the petition, Bautista-Gunter indicates that he was convicted of an offense under Maryland state law and says that that offense served as the predicate for his § 922(g) conviction. [R. 1 at 2, 7; R. 1-2 at 1-14.] Bautista-Gunter then argues that his state conviction was unconstitutional and, therefore, so is his § 922(g) conviction. [R. 1

at 2, 7; R. 1-2 at 1-14.] Bautista-Gunter also attacks his § 46505 conviction and makes a number of other arguments, including claiming that there was insufficient evidence against him, he received ineffective assistance of counsel, and the government committed misconduct. [R. 1 at 6-8; R. 1-2 at 1-14.] Bautista-Gunter asks the Court to nullify his state conviction, vacate his § 922(g) conviction, and reverse his § 46505 conviction. [R. 1 at 8.] Finally, Bautista-Gunter volunteers information about his alleged prior work history and suggests that the disclosure of this information would put him in danger; this appears to be the reason why Bautista-Gunter asked the Court to file his habeas petition under seal.

As an initial matter, the Court will deny Bautista-Gunter's request to seal his petition. That is because "[t]he courts have long recognized . . . a strong presumption in favor of openness as to court records," and Bautista-Gunter has not met his heavy burden to justify the non-disclosure of his petition. *Shane Group, Inc. v. Blue Cross Blue Shield of Michigan*, 825 F.3d 299, 305 (6th Cir. 2016) (citation and quotation marks omitted). After all, Bautista-Gunter volunteered the information in question, and it appears that the information may already be public. Indeed, there is no indication that Bautista-Gunter's criminal case was sealed in its entirety, *see United States v. Bautista-Gunter*, No. 5:16-cr-176-DAE-1 (W.D. Tex. 2016), and Bautista-Gunter himself suggests that the information is already known and that the Bureau of Prisons has taken steps to protect him. [R. 1-1.] Given these facts, the Court will direct the Clerk of the Court to unseal this matter, including Bautista-Gunter's petition.

The Court will also deny Bautista-Gunter's habeas petition without prejudice because it is premature at best. While Bautista-Gunter tries to attack his convictions, he must first complete the direct appeal process and then, if necessary, file a motion for relief under 28 U.S.C. § 2255 before he can even attempt to pursue remedies under § 2241. *See Anzaldi v. Quintana*, No. 5:14-

cv-215-KKC, 2014 WL 2742580, at *2 (E.D. Ky. 2014); *Denton v. U.S. Atty. Gen.*, No. 6:12-cv-219-DCR, 2012 WL 5450034, at *1 (E.D. Ky. 2012).

Accordingly, **IT IS ORDERED** that:

1. The Clerk of the Court shall **UNSEAL** this matter, including Bautista-Gunter's petition for a writ of habeas corpus pursuant to 28 U.S.C. § 2241 [**R. 1**].
2. Bautista-Gunter's habeas petition [**R. 1**] is **DENIED WITHOUT PREJUDICE**.
3. This action is **STRICKEN** from the Court's docket.
4. A corresponding judgment will be entered this date.

This the 22nd day of June, 2017.

The image shows a handwritten signature in black ink, which appears to read "Gregory F. Van Tatenhove". The signature is written over a circular official seal. The seal contains the text "UNITED STATES DISTRICT COURT" at the top and "EASTERN DISTRICT OF KENTUCKY" at the bottom. In the center of the seal is an eagle with its wings spread, perched on a shield.

Gregory F. Van Tatenhove
United States District Judge