

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF KENTUCKY
SOUTHERN DIVISION
(at London)

| | | |
|----------------------|---|--------------------------------|
| DERRICK K. HALE, |) | |
| |) | |
| Petitioner, |) | Civil Action No. 6: 20-211-DCR |
| |) | |
| v. |) | |
| |) | |
| BRANDY HARM, Warden, |) | MEMORANDUM ORDER |
| |) | |
| Respondent. |) | |

*** **

Petitioner Derrick K. Hale is a convicted state prisoner incarcerated at the Bell County Forestry Camp in Pineville, Kentucky. The Court previously dismissed his petition for a writ of habeas corpus under 28 U.S.C. § 2254 because it failed to state a cognizable claim and failed to demonstrate exhaustion of state remedies. [Record No. 6] Undeterred, Hale has now filed a motion, styled as an emergency petition to appeal the Court’s October 22, 2020, Order, which seeks “a sentence reduction that is equal to an immediate release” due to the COVID-19 pandemic. [Record No. 9] The Court has denied similar motions from Hale multiple times, and it will do so again here.

The Court will construe Hale’s filing as a motion for reconsideration of the Court’s October 22, 2020, Order. Hale asks the Court to waive “the state court remedy requirement” due to a COVID-19 outbreak at Bell County Forestry Camp. [Record No. 9, p. 1] But even if the Court waived that requirement, Hale has still not stated a cognizable claim. State challenges to conditions of confinement are properly brought as § 1983 actions, not habeas petitions. *Preiser v. Rodriguez*, 411 U.S. 475, 499 (1973). As he has been informed multiple

times, Hale cannot be granted the relief he seeks in this proceeding. If he wishes to raise an Eighth Amendment claim, he must do so in a civil rights action, and if he wishes to receive a sentence reduction, or some other form of emergency relief, he should request it from a state court or state officials. Hale's concerns are understandable, but he has simply chosen the wrong path to relief.

Accordingly, it is hereby

ORDERED that Hale's motion [Record No. 9] is **DENIED**.

Dated: November 19, 2020.



A handwritten signature in black ink, appearing to read "Danny C. Reeves".

Danny C. Reeves, Chief Judge
United States District Court
Eastern District of Kentucky