

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MARYLAND

MOHAMMAD IJAZ *
Petitioner *
v * Civil Action No. MJG-10-1817
WARDEN DUKE TERRELL *
Respondent *

MEMORANDUM OPINION

The above-captioned case was transferred to this Court from the United States District Court for the Eastern District of New York on July 7, 2010. In this Petition for Writ of Habeas Corpus, Petitioner seeks a reduction of the sentence imposed by this Court because he was exposed to unduly harsh conditions of incarceration for two years following sentencing. Paper No. 1.

Recently this Court addressed Petitioner's claim that he was entitled to a downward adjustment to his sentence despite the terms of his plea agreement. *See Ijaz v. Terrell*, Civil Action MJG-10-1118 (D. Md.). In the context of denying Petitioner's Motion for Immediate Release, the undersigned noted that the Guideline Sentencing Range was 70 to 87 months, while the sentence actually imposed was 48 months. The Court declined to reduce the offense level to 21 and resentence Petitioner at the low end of the Guideline Range, which would be 37 months. *Id.* Additionally, the Court noted that as a Motion to Vacate filed under 28 U.S.C. §2255 the petition was untimely.

The sentence reduction sought by Petitioner in the instant case is not available to him under 28 U.S.C. §2241 or §2255. Downward departures for purposes of sentencing guidelines

are taken into consideration at the time of sentencing and conditions of incarceration following the imposition of sentence is not a factor to be considered under 18 U.S.C. §3553. Classification of sentenced prisoners is left to the discretion of the Bureau of Prisons. In addition, as previously noted, Petitioner's sentence was the result of a plea agreement calling for a more lenient sentence than what is indicated by the sentencing guidelines.

The Petition fails to state a claim upon which relief may be granted and must be dismissed. A separate Order follows.

7/29/2010
Date

/s/
Marvin J. Garbis
United States District Judge