

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

ANTHONY LEGION,

Petitioner,

v.

KENNETH T. MCKEE,

Respondent.

Case No. 15-cv-11463

UNITED STATES DISTRICT COURT JUDGE
GERSHWIN A. DRAIN

UNITED STATES MAGISTRATE JUDGE
DAVID R. GRAND

ORDER OF DISMISSAL

This matter has come before the Court on Anthony Legion's ("Petitioner") memorandum of law in support of an amended habeas corpus petition. Although the case number provided on the memorandum is 05-40181, the memorandum was treated as a new case and given the number 15-11463. Petitioner's attorney has informed the Court that the memorandum should have been filed in case number 05-40181 instead of being treated as a new case and that she already filed the identical memorandum in case number 05-40181.

"[P]laintiffs have no right to maintain two actions on the same subject in the same court, against the same defendant at the same time." *Curtis v. Citibank, N.A.*, 226 F.3d 133, 139 (2d Cir. 2000). Because Petitioner's attorney filed the memorandum in an active case, which is pending before another judge in this District, the logical and most efficient approach to avoiding the duplicate filing is to dismiss this case in favor of the earlier case. *See Pittman v. Moore*, 980 F.2d 994, 995 (5th Cir. 1993) (affirming the District Court's dismissal of a *pro se* prisoner's complaint that duplicated the allegations raised in another federal lawsuit filed by the same

prisoner). Accordingly, the Court **SUMMARILY DISMISSES** this case **WITHOUT PREJUDICE** to Petitioner's right to challenge his state conviction in case number 05-40181.

SO ORDERED.

Dated: April 30, 2015

/s/Gershwin A Drain
Hon. Gershwin A. Drain
United States District Court Judge