

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

RUEBEN HERRERA,

Petitioner,

v.

SHERRY L. BURT,

Respondent.

Case No. 17-cv-12175

UNITED STATES DISTRICT COURT JUDGE
GERSHWIN A. DRAIN

UNITED STATES MAGISTRATE JUDGE
ANTHONY P. PATTI

**ORDER DISMISSING PETITIONER’S MOTION TO DISMISS MAY 4, 2017 HABEAS
CORPUS PETITION [9]**

Petitioner Rueben Herrera (“Petitioner”), incarcerated at the Muskegon Correctional Facility in Muskegon, Michigan, has filed a petition for writ of habeas corpus. This matter is before the Court on Petitioner’s Motion to Dismiss an earlier duplicate petition he filed in May 2017. Dkt. No. 9.

The Court, however, has already transferred his habeas petition to the United States Court of Appeals for the Sixth Circuit as a second or successive petition to *Herrera v. Redman*, No. 85-cv-74133 (E.D. Mich. June 29, 1988); *see also Herrera v. Redman*, No. 88-1776, 869 F.2d 1490 (6th Cir. Feb. 16, 1989).

A district court loses jurisdiction over a state prisoner’s habeas case when it transfers the habeas petition to an appellate court on the ground that it is a second or

successive petition. *See Jackson v. Sloan*, 800 F.3d 260, 261 (6th Cir. 2015). Consequently, the Court no longer has jurisdiction over this case. Accordingly, the Court **DISMISSES** the motion to dismiss [9] for lack of jurisdiction. No further pleadings should be filed in this case unless and until the Sixth Circuit authorizes Petitioner to file a second or successive habeas petition.

IT IS SO ORDERED.

Dated: August 2, 2017

s/Gershwin A. Drain
HON. GERSHWIN A. DRAIN
United States District Court Judge

CERTIFICATE OF SERVICE

The undersigned certifies that the foregoing document was served upon counsel of record and any unrepresented parties via the Court's ECF System to their respective email or First Class U.S. mail addresses disclosed on the Notice of Electronic Filing on August 2 2017.

s/Tanya R Bankston
TANYA R. BANKSTON
Case Manager