

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

CHARLES E. BURROWS,

Petitioner,

v.

CASE NO. 2:17-CV-14120
HONORABLE PAUL D. BORMAN

J. A. TERRIS,

Respondent.

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**OPINION AND ORDER DISMISSING THE PETITION
FOR A WRIT OF HABEAS CORPUS AS DUPLICATIVE**

Federal prisoner Charles E. Burrows (“Petitioner”), currently confined at the Federal Correctional Institution in Milan, Michigan, has, through counsel, filed a petition for a writ of habeas corpus pursuant to 28 U.S.C. § 2241 challenging his armed career criminal sentencing enhancement and 188-month sentence imposed by the United States District Court for the Central District of Illinois in 2004.

Petitioner, however, has already filed a pro se federal habeas petition under § 2241 with this Court challenging the same federal sentence, which is pending before another district judge. *See Burrows v. Terris*, Case No. 2:17-CV-13787 (E.D. Mich.) (Berg, J.). Consequently, the Court finds that this action is duplicative and must be dismissed. A suit is duplicative, and subject to dismissal, if the claims, parties, and available relief do not significantly differ between the two actions. *See, e.g., Barapind v. Reno*, 72 F. Supp. 2d 1132, 1145 (E.D. Cal. 1999) (internal citations omitted). Because Petitioner

challenges the same sentence in both cases and raises the same issues, the Court will dismiss this second case as duplicative. *See Davis v. United States Parole Comm'n*, 870 F.2d 657, 1989 WL 25837, *1 (6th Cir. March 7, 1989) (district court may dismiss a habeas petition as duplicative of a pending habeas petition when the second petition is essentially the same as the first petition); *Nye v. Booker*, No. 07-CV-12890, 2007 WL 2318750, *1 (E.D. Mich. Aug. 9, 2007); *Harrington v. Stegall*, No. 02-CV-70573-DT, 2002 WL 373113, *2 (E.D. Mich. Feb. 28, 2002); *see also Elliott v. Wilson*, 600 F. App'x 181 (4th Cir. 2015) (affirming dismissal of second § 2241 petition as duplicative); *Mitchell v. Gunja*, 76 F. App'x 865, 867 (10th Cir. 2003) (same).

Accordingly, the Court **DISMISSES** the instant habeas petition as duplicative. This dismissal is without prejudice to Petitioner's habeas action in Case No. 2:17-CV-13787. The Court notes that a certificate of appealability is not needed to appeal the dismissal of a habeas petition filed pursuant to 28 U.S.C. § 2241. *Witham v. United States*, 355 F.3d 501, 504 (6th Cir. 2004). Petitioner thus need not request one from this Court or the Sixth Circuit should he seek to appeal this decision. This case is closed.

IT IS SO ORDERED.

s/Paul D. Borman
Paul D. Borman
United States District Judge

Dated: January 10, 2018

CERTIFICATE OF SERVICE

The undersigned certifies that a copy of the foregoing order was served upon each attorney or party of record herein by electronic means or first class U.S. mail on January 10, 2018.

s/Deborah Tofil
Case Manager