

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

PATRICK THELEN,

Petitioner,

Case Number 2:19-CV-10182
HON. GEORGE CARAM STEEH
U. S. DISTRICT JUDGE

v.

JAMES BILLINGSLEY,

Respondent,

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

Patrick Thelen, (“Petitioner”), incarcerated at the RRC Halfway House in Saginaw, Michigan, filed a petition for writ of habeas corpus pursuant to 28 U.S.C. § 2241. Petitioner challenges a disciplinary hearing conducted by the Bureau of Prisons, in which he was found guilty of testing positive in a urinalysis for using amphetamines and methamphetamines. This finding resulted in the loss of 39 days credit. For the reasons that follow, the petition is **SUMMARILY DISMISSED AS DUPLICATIVE** of two pending habeas petitions.

The petitioner filed two prior habeas actions challenging the same disciplinary conviction and raising the same claim, which are currently pending in the federal court. *See Thelen v. Terris*, No. 5:18-cv-13719 (E.D. Mich.)(Levy, J.); *Thelen v. Billingsley*, No. 2:19-cv-10212 (E.D. Mich.)(Lawson, J.).

A suit is duplicative and subject to dismissal if the claims, parties, and available relief do not significantly differ from an earlier-filed action. *See, e.g., Barapind v. Reno*, 72 F.Supp.2d 1132, 1145 (E.D. Cal. 1999). Petitioner's current habeas petition challenges the same disciplinary conviction and is based on the same ground as the previous cases assigned to Judge Levy and Judge Lawson. The present petition must be dismissed because it is a duplicate petition. *See, e.g. Daniel v. Lafler*, No. 06-CV-12343, 2006 WL 1547772, at * 1 (E.D. Mich. June 1, 2006); *see also Davis v. United States Parole Comm'n*, 870 F.2d 657, 1989 WL 25837, * 1 (6th Cir. Mar. 7, 1989)(a district court may dismiss a habeas petition as duplicative of a pending habeas petition when the second petition is the same as the first petition).

Accordingly, it is ORDERED that the petition for a writ of habeas corpus is DISMISSED as a duplicate petition without prejudice to the adjudication of the habeas petitions filed as Case No. 5:18-cv-13719 and Case No. 2:19-cv-10212. Because a certificate of appealability is not needed to appeal the denial of a habeas petition filed under § 2241, *Witham v. United States*, 355 F. 3d 501, 504 (6th Cir. 2004), petitioner is not required to apply for one before filing an appeal from the denial of his habeas petition.

s/George Caram Steeh
HON. GEORGE CARAM STEEH
United States District Judge

DATED: February 8, 2019