

**UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION**

MARVIN LOUIS PEATS,

Petitioner,

v.

CASE NO. 3:21-CV-10812

GARY MINIARD,

Respondent.

OPINION AND ORDER DISMISSING HABEAS PETITION AS DUPLICATIVE

Petitioner Marvin Louis Peats, currently confined at the Saginaw Correctional Facility in Freeland, Michigan, has filed a pro se petition for a writ of habeas corpus asserting that he is being held in violation of his constitutional rights. Petitioner was convicted of third-degree criminal sexual conduct following a jury trial in the Kent County Circuit Court and was sentenced, as a fourth habitual offender, to 17 to 40 years imprisonment in 2016. In his pleadings, he raises claims concerning the sufficiency of the evidence, the notice of the charges against him, the effectiveness of trial counsel at sentencing, the effectiveness of trial and appellate counsel relative to jury selection, the right to post-conviction relief, the fourth habitual offender notice, and his entitlement to relief under Michigan Court Rule 6.500.

Petitioner has already filed a federal habeas action challenging the same conviction and raising the same claims, which is pending before another district judge. See *Peats v. Miniard*, Case No. 2:21-CV-10771 (E.D. Mich.) (Hood, CJ.). Petitioner may not challenge the same conviction in two different habeas actions. Accordingly, the

instant action must be dismissed as duplicative. 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). Such is the case here. Because Petitioner challenges the same conviction in both habeas petitions and raises the same claims, the court will dismiss this second action as duplicative. See *Flowers v. Trombley*, 2006 WL 724594, *1 (E.D. Mich. March 17, 2006) *Harrington v. Stegall*, 2002 WL 373113, *2 (E.D. Mich. Feb. 28, 2002); see also *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).

Accordingly, for the reasons stated, IT IS ORDERED that the instant habeas petition is DISMISSED as duplicative. This dismissal is without prejudice to the habeas petition filed in Case No. 2:21-CV-10771. This case is closed.

S/Robert H. Cleland
ROBERT H. CLELAND
UNITED STATES DISTRICT JUDGE

Dated: May 7, 2021

I hereby certify that a copy of the foregoing document was mailed to counsel of record on this date, May 7, 2021, by electronic and/or ordinary mail.

S/Lisa Wagner
Case Manager and Deputy Clerk
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