

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

JAMES HENRY TOWNSEND, III,

Petitioner,

Case Number: 4:17-12138
Honorable Linda V. Parker

v.

CARMEN PALMER,

Respondent.

**OPINION AND ORDER DISMISSING PETITION FOR WRIT OF
HABEAS CORPUS WITHOUT PREJUDICE AND DENYING
CERTIFICATE OF APPEALABILITY**

James Henry Townsend, II, is in state custody at the Michigan Reformatory in Ionia, Michigan. He has filed a *pro se* petition for a writ of habeas corpus under 28 U.S.C. § 2254, challenging his first-degree premeditated murder conviction. The Court finds that the petition is duplicative of another case pending in this district court and, therefore, dismisses the petition.

On the same date that the pending petition was filed, another habeas petition was filed in this Court and assigned a lower case number. *See Townsend, II, v. Palmer*, No. 17-cv-12128. That first-filed petition challenges the same conviction challenged in the pending matter and the petitions, briefs in support, and attachments appear to be identical.

“[A] suit is duplicative if the claims, parties, and available relief do not significantly differ between the two actions.” *Serlin v. Arthur Anderson & Co.*, 3 F.3d

221, 223 (7th Cir. 1993) (internal quotation marks and citations omitted). A district court may dismiss a habeas petition when it is duplicative of a pending habeas petition. *See Twaddle v. Diem*, 200 F. App'x 435, 438 (6th Cir. 2006) (holding that “simple dismissal” of a duplicative suit is a “common disposition because plaintiffs have no right to maintain two actions on the same subject in the same court, against the same defendant at the same time”); *Davis v. U.S. Parole Commission*, No. 88-5905, 1989 WL 25837 (6th Cir. 1989) (affirming dismissal of duplicative habeas corpus petition). This petition is duplicative of the earlier-filed petition and shall be dismissed.

Accordingly, **IT IS ORDERED** that the petition (ECF No. 1) is **DISMISSED WITHOUT PREJUDICE**. Reasonable jurists would not debate the Court’s decision that the petition is duplicative of an earlier-filed petition and should be dismissed on that basis. The Court therefore **DECLINES** to grant a certificate of appealability under 28 U.S.C. § 2253(c)(2). *See Slack v. McDaniel*, 529 U.S. 473, 484 (2000).

IT IS SO ORDERED.

s/ Linda V. Parker
LINDA V. PARKER
U.S. DISTRICT JUDGE

Dated: July 20, 2017

I hereby certify that a copy of the foregoing document was mailed to counsel of record and/or pro se parties on this date, July 20, 2017, by electronic and/or U.S. First Class mail.

s/ R. Loury
Case Manager