

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA

RICHARD D. TALBOTT,

Case No. 10-CV-1553 (PJS/JJK)

Petitioner,

v.

ORDER

SCOTT FISHER, Warden,

Defendant.

Richard D. Talbott, pro se.

Lisa D. Kirkpatrick, UNITED STATES ATTORNEY'S OFFICE, for defendant.

Petitioner Richard D. Talbott seeks to be released from federal custody through a petition under 28 U.S.C. § 2241 for a writ of habeas corpus. After initially moving to dismiss for lack of jurisdiction, the government changed course and opposed the petition on the merits. *See* Order Dec. 20, 2010 [Docket No. 29] (describing procedural history); Gov't Return to Pet. [Docket No. 35].

Talbott's petition was referred to Magistrate Judge Jeffrey J. Keyes. Judge Keyes considered Talbott's petition, the government's opposition, and Talbott's reply in support of his petition. In a Report and Recommendation ("R&R") dated April 5, 2011, Judge Keyes recommends denying Talbott's petition and dismissing this case with prejudice.

Talbott objects to Judge Keyes's R&R. He has set forth his objections in four documents: (1) an objection [Docket No. 39]; (2) a "Petition to Amend" his objection [Docket No. 40]; (3) a "Petition to Supplement" his objection [Docket No. 41]; and (4) a "Motion to Present Supplemental Authority" in support of his objection [Docket No. 42]. The government

did not respond to Talbott's objection, which was unfortunate, as Talbott's objection was far from frivolous, and the Court would have welcomed a response from the government.

That said, the Court has carefully considered all of the documents submitted by Talbott in support of his objection, and the Court has reviewed de novo those portions of the R&R to which Talbott has objected, as required by 28 U.S.C. § 636(b)(1) and Fed. R. Civ. P. 72(b). Having closely examined both Ind. Code § 35-42-2-1, Sec. 1(a)(3) and the relevant case law, the Court agrees with Judge Keyes's analysis and conclusions. The Court therefore overrules Talbott's objection and adopts Judge Keyes's thorough and well-reasoned R&R.

ORDER

Based on the foregoing and on all of the files, records, and proceedings herein, IT IS HEREBY ORDERED THAT:

1. Petitioner Richard D. Talbott's motion to amend [Docket No. 40] is GRANTED.
2. Talbott's motion to present supplemental authority [Docket No. 42] is GRANTED.
3. The Court OVERRULES Talbott's objection [Docket No. 39] and ADOPTS Judge Keyes's Report and Recommendation [Docket No. 38].
4. Talbott's petition for a writ of habeas corpus [Docket No. 1] is DENIED.
5. This case is DISMISSED WITH PREJUDICE.

LET JUDGMENT BE ENTERED ACCORDINGLY.

Dated: May 27, 2011

s/Patrick J. Schiltz
Patrick J. Schiltz
United States District Judge