

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA

CASIMIR ROBERT KRITHERS,

Case No. 17-CV-0149 (PJS/SER)

Plaintiff,

v.

ORDER

ROBYN WOJCIECHOWSKI,

Defendant.

Casimir Robert Krithers, pro se.

Gary W. Bjorklund, ST. LOUIS COUNTY ATTORNEY'S OFFICE, for
defendant.

Plaintiff Casimir Krithers was charged with domestic assault in state court.

Krithers was confined in a state jail while awaiting trial on this charge. Krithers
challenged his pretrial detention by filing a habeas petition under 28 U.S.C. § 2241.

Before the Court could rule on Krithers's petition, however, Krithers was convicted of
the state charges. Therefore, Krithers is no longer in *pretrial* detention.

This matter comes before the Court on Krithers's objection to Magistrate Judge
Steven E. Rau's Report & Recommendation ("R&R") of September 21, 2017.¹ Judge Rau

¹The Court did not receive Krithers's objection until the Court had already
entered judgment against Krithers. *See* ECF Nos. 34-36. But Krithers claims that he did
not receive a copy of Judge Rau's R&R until October 5, 2017, and that he filed his
objection fewer than 14 days later. *See* ECF No. 37 at 4. Therefore, the Court will treat
Krithers's objection as if it was timely filed. *See* Local Rule 72.2(b)(1) (giving parties 14
(continued...))

recommends that Krithers's § 2241 petition be dismissed as moot. The Court has conducted a de novo review. *See* 28 U.S.C. § 636(b)(1); Fed. R. Civ. P. 72(b)(3). Based on that review, the Court agrees that, because Krithers has now been convicted, his challenge to his pretrial detention is moot. *See Jackson v. Clements*, 796 F.3d 841, 843 (7th Cir. 2015); *Williams v. Slater*, 317 F. App'x 723, 724-25 (10th Cir. 2008); *Yohey v. Collins*, 985 F.2d 222, 228-29 (5th Cir. 1993); *Thorne v. Warden, Brooklyn House of Detention for Men*, 479 F.2d 297, 299 (2d Cir. 1973); *Medina v. California*, 429 F.2d 1392, 1393 (9th Cir. 1970). The Court therefore adopts Judge Rau's R&R.

To be clear: The arguments that Krithers makes in challenging the lawfulness of his pretrial detention are also arguments that Krithers may make in challenging the lawfulness of his *conviction*. (Krithers's conviction is now on appeal to the Minnesota Court of Appeals.) The Court is dismissing Krithers's § 2241 petition without prejudice for lack of jurisdiction; the Court is not ruling on the merits of Krithers's arguments. As a result, the Court's action does not preclude Krithers from raising his arguments on appeal from his conviction or in a later § 2241 proceeding.

ORDER

Based on the foregoing, and all of the files, records, and proceedings herein, the Court **OVERRULES** Krithers's objection [ECF No. 36] and **ADOPTS** Judge Rau's R&R

¹(...continued)
days to object after being served with a copy of the R&R).

[ECF No. 32]. Accordingly, IT IS HEREBY ORDERED THAT Krithers's § 2241 complaint is DISMISSED WITHOUT PREJUDICE.

LET JUDGMENT BE ENTERED ACCORDINGLY.

Dated: November 28, 2017

s/Patrick J. Schiltz

Patrick J. Schiltz

United States District Judge