

**UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA**

Ronald Louis Trice,

Civil No. 17-1995 (DWF/LIB)

Petitioner,

v.

**ORDER ADOPTING REPORT
AND RECOMMENDATION**

United States of America,

Respondent.

This matter is before the Court upon Petitioner Ronald Louis Trice's ("Petitioner") objections (Doc. No. 6) to Magistrate Judge Leo I. Brisbois's July 18, 2017 Report and Recommendation (Doc. No. 3) insofar as it recommends that: (1) Petitioner's Petition for a Writ of Habeas Corpus be dismissed without prejudice for lack of jurisdiction; and (2) Petitioner's Application to Proceed *in forma pauperis* be denied. Respondent United States of America filed a response to Petitioner's objections on September 1, 2017. (Doc. No. 7.)

The factual background for the above-entitled matter is clearly and precisely set forth in the Report and Recommendation and is incorporated by reference for purposes of Petitioner's objections. In the Report and Recommendation, Magistrate Judge Brisbois noted that Petitioner brought a Petition for Writ of Habeas Corpus under 28 U.S.C. § 2241, challenging his sentence and, in particular, the trial court's application of the career-offender enhancement after Petitioner pleaded guilty to one count of possession with intent to distribute controlled substances and one count of possessing a firearm in

furtherance of a drug-trafficking offense. (Doc. No. 3 at 1.) The Magistrate Judge found that Petitioner must be dismissed without prejudice for lack of jurisdiction because a federal inmate must challenge a conviction or sentence through a § 2255 motion. In addition, the Magistrate Judge explained that Petitioner cannot successfully invoke the “savings clause” because Petitioner could have raised the challenge previously. (*Id.* at 2-3.)

The Court has conducted a *de novo* review of the record, including a review of the arguments and submissions of counsel, pursuant to 28 U.S.C. § 636(b)(1) and Local Rule 72.2(b). Having reviewed the record *de novo*, the Court concludes that Petitioner’s objections do not warrant departure from the Magistrate Judge’s Report and Recommendation, and the Court agrees with the findings and conclusions reached therein. Based upon the *de novo* review of the record and all of the arguments and submissions of the parties and the Court being otherwise duly advised in the premises, the Court hereby enters the following:

ORDER

1. Petitioner Ronald Louis Trice’s objections (Doc. No. [6]) to Magistrate Judge Leo I. Brisbois’s July 18, 2017 Report and Recommendation are **OVERRULED**.
2. Magistrate Judge Leo I. Brisbois’s July 18, 2017 Report and Recommendation (Doc. No. [3]) is **ADOPTED**.
3. Petitioner Ronald Louis Trice’s Petition for a Writ of Habeas Corpus (Doc. No. [1]) is **DISMISSED WITHOUT PREJUDICE** for lack of jurisdiction;

4. Trice's Application to Proceed *in forma pauperis* (Doc. No. [2]) is

DENIED.

LET JUDGMENT BE ENTERED ACCORDINGLY.

Dated: October 16, 2017

s/Donovan W. Frank
DONOVAN W. FRANK
United States District Judge