

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION

STEVEN E. TAYLOR,)	
)	
Petitioner,)	
)	
vs.)	Case No. 4:13cv2191 TCM
)	
T. HUNNEL,)	
)	
Respondent.)	

MEMORANDUM AND ORDER

This matter is before the Court upon its own motion. Petitioner submitted a letter to the Court requesting relief from his state court criminal conviction. In the interests of justice, the Clerk provisionally docketed the letter as a petition for writ of habeas corpus under 28 U.S.C. § 2254.

Before the Court will *sua sponte* characterize the instant filing as a § 2254 motion, Petitioner will be given the opportunity to either consent to the classification or withdraw the filing. See Morales v. United States, 304 F.3d 764, 767 (8th Cir. 2002) (requiring that, when a district court intends to reclassify a pro se litigant's pleading for habeas relief, the court first warn the litigant of the restrictions on second or successive pleadings and of the applicable statute of limitations and second give the litigant the opportunity to either withdraw his pleading or consent to the reclassification).

Petitioner is warned that if he consents to the classification of the instant filing as a motion under § 2254, any future § 2254 motions will be subject to the restrictions on filing

second or successive motions. That is, Petitioner will not be permitted to bring a second or successive § 2254 motion unless the United States Court of Appeals for the Eighth Circuit certifies that the second or successive motion meets the requirements set forth in 28 U.S.C. § 2244(b)(3)(A). Furthermore, Petitioner is warned that § 2254 motions are subject to a one-year limitations period. See 28 U.S.C. § 2244(d).

If Petitioner consents to the characterization of the instant filing as a § 2254 motion, he must inform the Court of his decision, in writing, within thirty days of the date of this Order. Furthermore, if Petitioner consents to the characterization, then he must file an amended § 2254 motion on the court-provided form within thirty days of the date of this Order.

If Petitioner opposes the characterization, or if he fails to timely respond to this Order, then the Court will dismiss the action without prejudice and without characterizing the filing as a § 2254 motion.

Accordingly,

IT IS HEREBY ORDERED that Petitioner shall have thirty (30) days from the date of this Order to formally consent, in writing, to the Court's characterization of the instant filing as 28 U.S.C. § 2254 petition.

IT IS FURTHER ORDERED that if Petitioner consents to the characterization, then he must file an amended 28 U.S.C. § 2254 petition on the court-provided form within thirty (30) days of the date of this Order.

IT IS FURTHER ORDERED that if Petitioner does not consent to the characterization of the instant filing as a 28 U.S.C. § 2254 petition, or if he fails to timely respond to this Order, then the Court will dismiss the action without prejudice and without characterizing the filing as a 28 U.S.C. § 2254 petition.

IT IS FURTHER ORDERED that the Clerk shall mail to Petitioner a copy of the court's form petition for writ of habeas corpus under 28 U.S.C. § 2254.

IT IS FINALLY ORDERED that if Petitioner submits a 28 U.S.C. § 2254 petition, he must also submit the \$5 statutory filing fee within thirty (30) days of the date of this Order.

/s/Thomas C. Mummert, III
THOMAS C. MUMMERT, III
UNITED STATES MAGISTRATE JUDGE

Dated this 31st day of October, 2013.