

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION**

MILTON CARTER, JR.,)	
)	
Petitioner,)	
)	
v.)	No. 4:15CV1163 HEA
)	
GARY STOLZER,)	
)	
Respondent,)	

OPINION, MEMORANDUM AND ORDER

Before the Court is petitioner’s application for “writ of habeas corpus.” Although petitioner has not articulated the statute under which he is bringing his writ, after reviewing petitioner’s one-page complaint form and finding that petitioner is still in federal custody, the Court surmises that petitioner is proceeding under 28 U.S.C. § 2241.

There are several procedural problems with petitioner’s filing. First, petitioner has neither paid the \$5 filing fee nor filed a motion to proceed in forma pauperis. As a result, the Court will order petitioner to either pay the filing fee or submit a motion to proceed in forma pauperis and corresponding financial affidavit within thirty (30) days of the date of this Order. Additionally, petitioner has failed to sign the petition, which is required under Fed.R.Civ.P. 11. However, because the Court will require petitioner to amend his pleading, it will not be necessary to return the original pleading to petitioner to have him comply with Rule 11.

A review of the petition, and four accompanying grievances, reveals that petitioner was a federal inmate who, up until several months ago, was being held in the United States Penitentiary in Pollock, Louisiana. Court records from an inmate search indicate that petitioner is currently under the management and control of the Residential Reentry Office located in St. Louis,

Missouri. Petitioner alleges that he was transferred from the USP at Pollock to a “Farmington Halfway House.” Petitioner states that he had a “verbal disagreement” during his time at the halfway house, after which time he was transferred, without warning and without a hearing, on July 2, 2015, to Saint Genevieve County Detention Center, without any of his property. Petitioner claims this was a violation of his due process rights.

Petitioner asserts that grievances filed at Saint Genevieve County Detention Center relating to the loss of his due process rights have resulted in answers from the Detention Center stating that only the “BOP” can decide whether he will be released from the jail back to the halfway house or whether he will lose any good-time credits. Petitioner asserts that he cannot get an answer on the matter from the Bureau of Prisons.

As it appears that petitioner is under federal custody and his claims appear to relate to the way his sentence is being carried out, the Court will have petitioner amend his petition on a court-provided form for filing a petition for writ of habeas corpus under 28 U.S.C. § 2241. If petitioner is able to do so, he should briefly explain his custody situation, i.e., whether he is still in federal custody serving his days on his Maryland conviction, or whether he is on federal or state detainer, or awaiting state parole. Petitioner should also take care to state, in as succinct a manner as possible, whether he is challenging the way his sentence is being carried out, i.e., whether he is challenging the way his sentence is being calculated or a loss of good time credits, or whether he is simply challenging a condition of his present confinement, such as a loss of privileges for fighting at the half-way house.¹ Petitioner should also take care to sign and date his petition. *See* Fed.R.Civ.P.11.

¹ If petitioner believes he is challenging a fact or condition of his confinement, pursuant to 42 U.S.C. § 1983, he should file his complaint on the Court’s Prisoner Civil Complaint Form. In an abundance of caution the Court will provide petitioner with a copy of the form complaint.

Petitioner's amended complaint, as well as his motion to proceed in forma pauperis and accompanying financial affidavit, shall be filed with this Court within thirty (30) days of the date of this Memorandum and Order. Petitioner's failure to do so may result in a dismissal of this action, without prejudice. *See* Fed.R.Civ.P.41(b).

Accordingly,

IT IS HEREBY ORDERED that the Clerk of Court shall provide petitioner with a form for filing a "Petition For Writ of Habeas Corpus Under 28 U.S.C. § 2241," as well as a form "Motion to Proceed In Forma Pauperis and Affidavit in Support - Habeas Cases."

IT IS FURTHER ORDERED that petitioner shall complete, sign, and return the petition, motion and affidavit within thirty (30) days from the date of this Order.

IT IS HEREBY ORDERED that the Clerk of Court shall also provide petitioner with a copy of the Court's "Prisoner Civil Rights Complaint" form.

Dated this 7th day of August, 2015.

A handwritten signature in black ink, appearing to read "Howard A. ...", is written over a horizontal line. Below the signature is a dashed line, and below that is the text "UNITED STATES DISTRICT JUDGE".

UNITED STATES DISTRICT JUDGE