

**IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF MISSOURI
SOUTHERN DIVISION**

JOAQUIN I. FOY,)	
)	
v.)	Civil Action
)	No. 09-3085-CV-S-RED-H
MARTY C. ANDERSON, Warden,)	
United States Medical Center for)	
Federal Prisoners,)	
Respondent.)	

REPORT AND RECOMMENDATION OF UNITED STATES MAGISTRATE JUDGE

Petitioner, an inmate confined in the United States Medical Center for Federal Prisoners, petitions this Court for a writ of habeas corpus in which he challenges his confinement. The petition has been referred to the undersigned for preliminary review under 28 U.S.C. § 636(b). Because petitioner’s claims are without merit, it will be recommended that he be denied leave to proceed in forma pauperis.

As grounds for relief in habeas corpus, petitioner alleges that he has been over treated with antipsychotic medication against his wishes; that this constitutes deliberate indifference; and that antipsychotic medications can cause serious side effects; that he was been treated adversely by staff because of his disagreements and complaints; and that he is fighting for an unconditional release under 18 U.S.C. § 4246 because his commitment is medically fraudulent and a violation of his constitutional rights.

A review of the file and records in the case indicates that petitioner was committed to the custody of the Attorney General, pursuant to 18 U.S.C. § 4246, by the United States District Court

for the Western District of Missouri in 1999, and again on September 13, 2007. Petitioner received all the procedural protections due to him during the commitment proceedings. Specifically regarding the administration of involuntary psychotropic medication, the government submits that this was necessary after staff members discovered that petitioner had crafted a weapon and threatened to kill a staff member. The record indicates that petitioner received all the procedural protections to which he was entitled under the applicable regulations and under the purview of Washington v. Harper, 494 U.S. 210, 227 (1990), pursuant to an involuntary medication hearing on January 1, 2006. According to the record, petitioner tolerated the medication well, and was having no side effects; further, he agreed in February of 2009 to an increase in his antipsychotic medication. Regardless of petitioner's assertions, the record indicates that he is lawfully confined at the present time for mental health care and treatment pursuant to 18 U.S.C. § 4246, and that his constitutional rights have not been violated regarding the manner in which he has been treated. Accordingly, it must be recommended that the petitioner for habeas corpus relief be dismissed without prejudice.

Counsel for the petitioner has filed a Motion to Withdraw. Because there are no issues presented for which relief is appropriate, the motion is granted.¹

For the foregoing reasons, it is, pursuant to the governing law and in accordance with Local Rule 72.1 of the United States District Court for the Western District of Missouri,

RECOMMENDED that petitioner be denied leave to proceed in forma pauperis and that the

¹ Petitioner has 10 days to file exceptions to the Report and Recommendation of the United States Magistrate Judge.

petition herein for a writ of habeas corpus be dismissed without prejudice.

/s/ James C. England
JAMES C. ENGLAND
Chief, United States Magistrate Judge

Date: 10/29/09