

The Court of Appeals for the Third Circuit explained the distinction between the availability of civil rights relief and the availability of habeas relief as follows:

[W]henever the challenge ultimately attacks the "core of habeas" - the validity of the continued conviction or the fact or length of the sentence - a challenge, however denominated and regardless of the relief sought, must be brought by way of a habeas corpus petition. Conversely, when the challenge is to a condition of confinement such that a finding in plaintiff's favor would not alter his sentence or undo his conviction, an action under § 1983 is appropriate.

Leamer v. Fauver, 288 F.3d 532, 542 (3d Cir. 2002).

Therefore, a prisoner is entitled to a writ of habeas corpus if he “seek[s] to invalidate the duration of [his] confinement - either directly through an injunction compelling speedier release or indirectly through a judicial determination that necessarily implies the unlawfulness of the [government's] custody.” See Wilkinson v. Dotson, 544 U.S. 74, 81 (2005). In contrast, if a judgment in the prisoner’s favor would not affect the fact or duration of his incarceration, habeas relief is unavailable and a civil complaint is the appropriate form of remedy.¹ See, e.g., Ganim v. Federal Bureau of Prisons, 235 F. App’x 882 (3rd Cir. 2007); Bronson v. Demming, 56 F. App’x 551, 553-54 (3rd Cir. 2002).

Moreover, while the filing fee for a habeas petition is \$ 5.00, the filing fee applicable to a civil rights complaint is \$ 350.00. The Clerk cannot file a civil complaint unless the person seeking relief prepays the entire \$350.00 filing fee applies for and is granted in forma pauperis status under 28 U.S.C. § 1915. See Local Civil R. 5.1(f). Analogously,

[a habeas] application is “properly filed” [only] when its delivery and acceptance are in compliance with the applicable laws and rules governing filings.

¹ Since Petitioner is seeking release or a bond hearing, it appears that he is interested in raising habeas challenges.

Artuz v. Bennett, 531 U.S. 4, 8-9 (2000) (citations and footnote omitted).

Therefore, the Court will direct the Clerk to administratively terminate this matter, subject to reopening upon Petitioner's submission of: (a) a written statement clarifying the jurisdictional nature of Petitioner's challenges; and (b) the filing fee applicable to the action he wishes to litigate (or his complete in forma pauperis application).

s/Renée Marie Bumb _____
RENÉE MARIE BUMB
UNITED STATES DISTRICT JUDGE

Dated: April 25, 2013