

NOT FOR PUBLICATION

UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY
CAMDEN VICINAGE

JAY BONANZA BRILEY,	:	
	:	Civ. No. 16-5571(RMB)
Petitioner,	:	
	:	
v.	:	MEMORANDUM AND ORDER
	:	
MR. ORTIZ, WARDEN, FCI FORT DIX,	:	
	:	
Respondent.	:	
	:	

Petitioner is a federal prisoner currently incarcerated at F.C.I. Fort Dix, in Fort Dix, New Jersey. He is proceeding *pro se* on his petition for writ of habeas corpus pursuant to 28 U.S.C. § 2241.¹ In accordance with Rule 4 of the Rules Governing Section 2254 Cases, applicable to § 2241 cases through Rule 1(b) of the Rules Governing Section 2254 Cases, this Court has screened the petition for dismissal and determined that dismissal without an answer and the record is not warranted.

Petitioner requested habeas relief and money damages. (Pet., ECF No. 1, ¶¶33-36.) Damages are not available in a habeas proceeding under 28 U.S.C. § 2241. See Descamps v. Warden Lewisburg USP, 617 F. App'x 110, 111 (3d Cir. 2015) (per curiam) (the proper means for seeking damages or injunctive

¹ Generally, the only proper respondent in a proceeding under 28 U.S.C. § 2241 is the Petitioner's immediate custodian. Rumsfeld v. Padilla, 542 U.S. 426, 434-35 (2004).

relief is a civil rights action). If Plaintiff wishes to seek damages for the wrongdoing alleged in the petition, he must file a separate civil rights action under Bivens v. Six Unknown Named Agents of the Federal Bureau of Narcotics, 403 U.S. 388 (1971), after exhausting administrative remedies pursuant to 42 U.S.C. § 1997e(a).

IT IS THEREFORE on this 23rd day of September 2016,

ORDERED that the Clerk shall serve a copy of the petition (ECF. No. 1) and this Order upon respondent Ortiz by regular mail, with all costs of service advanced by the United States; and it is further

ORDERED that the Clerk shall forward a copy of the petition (ECF. No. 1) and this Order to the Chief, Civil Division, United States Attorney's Office, at the following email address: USANJ-HabeasCases@usdoj.gov; and it is further

ORDERED that within forty-five (45) days of the date of the entry of this Order, respondent shall file and serve an answer which responds to the allegations and grounds in the petition and which includes all affirmative defenses respondent seeks to invoke; and it is further

ORDERED that respondent shall file and serve with the answer certified copies of all documents necessary to resolve petitioner's claims and affirmative defenses; and it is further

ORDERED that within forty-five (45) days of receipt of the answer, petitioner may file a reply to the answer; and it is further

ORDERED that within seven (7) days of petitioner's release, be it parole or otherwise, respondent shall electronically file a written notice of the same with the Clerk.

s/RENÉE MARIE BUMB
RENÉE MARIE BUMB
UNITED STATES DISTRICT JUDGE