

NOT FOR PUBLICATION**CLOSED**

**UNITED STATES DISTRICT COURT  
DISTRICT OF NEW JERSEY**

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|-----------------------------------|---|--------------------------------|
| HOLY PHAROAH                      | : |                                |
| M.M.H.R.A.A.L.S.A. El-Bey, Ed. D. | : |                                |
| SUPREME ABYSSINIAN                | : |                                |
| AMBASSODOR OF MOREHSH L.A.W.      | : |                                |
| a/k/a JASON AMIN-BEY,             | : |                                |
| Petitioner,                       | : | Civil Action No. 14-7407 (SRC) |
| v.                                | : |                                |
| UNITED STATES OF AMERICA, et al., | : | <b><u>OPINION</u></b>          |
| Respondent.                       | : |                                |

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This § 2255 matter is before the Court upon a transfer order executed by the Eastern District of New York. See ECF No. 4. The transfer order details Petitioner’s litigation history in Massachusetts, Pennsylvania, Virginia and District of Columbia, as well as in this District. See id. at 1-3 (citing, inter alia, this Court’s decision in El-Bey v. United States, No. 13-4161 (D.N.J.), ECF No. 9). The Court will not repeat the same here. Suffice to state that Petitioner is a federal pre-trial detainee held in temporary custody in order to restore him to competency. Since a motion filed under 28 U.S.C. § 2255 is a vehicle to attack or seek correction of a *convicted* prisoner’s federal sentence, the § 2255 motion at bar is subject to dismissal for lack of jurisdiction because there has been no adjudication of Petitioner’s guilt in his pending criminal matter, nor any sentence imposed. See U.S. v. Colburn, 345 F. App’x 764, 764-65 (noting that a

§ 2255 motion may not be filed prior to sentencing); 28 U.S.C. § 2255(a) (indicating that the statute applies to “[a] prisoner in custody *under sentence of a court* ...”) (emphasis added).<sup>1</sup>

An appropriate Order follows.

s/ Stanley R. Chesler  
**STANLEY R. CHESLER**  
**United States District Judge**

Dated: December 16, 2014

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<sup>1</sup> As Petitioner’s litigation history indicates, his mental impediment has greatly affected his litigation practices. Hence, any sanction against him in connection with his repeat filings appears unwarranted. See Hoffenberg v. Bumb, 446 F. App’x 394, 400, n.4 (3d Cir. 2011) (directing an examination of the “record before this Court as to [the litigant’s] mental health [as a source of] explanation for his actions in this proceeding, or in [his] other proceedings”).