

NOT FOR PUBLICATION

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY

RECEIVED

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AT 8:30 _____ M
WILLIAM T. WALSH
CLERK

C. TATE GEORGE,

Petitioner,

v.

UNITED STATES OF AMERICA,

Respondents.

HONORABLE ANNE E. THOMPSON

Civil Action
No. 17-2641 (AET)**OPINION****THOMPSON, District Judge:**

Petitioner filed a motion to vacate, set aside, or correct his federal sentence pursuant to 28 U.S.C. § 2255 on April 18, 2017 (ECF No. 1).

1. The Honorable Mary L. Cooper, U.S.D.J.,¹ administratively terminated the motion on May 1, 2017 as Petitioner had not used the form provided by the Clerk's Office for § 2255 motions. (ECF No. 2).

2. Petitioner resubmitted his petition on the proper form on July 7, 2017 (ECF No. 7).

3. The Court ordered Respondent to answer the amended petition on September 1, 2017.

¹ The matter was reassigned to the undersigned on July 24, 2017.

4. On September 13, 2017, Petitioner filed a motion to amend, asking to amend the § 2255 motion “to correct certain discrepancies in the pending Section 2255 petition.” (ECF No. 17 ¶ 1).

5. The Court denied the motion to amend without prejudice as it did not comply with the rules regarding amending pleadings. (ECF No. 19).

6. Petitioner refiled his motion and proposed second amended petition on October 20, 2017. (ECF No. 21). Giving Petitioner the benefit of the liberal pleading standards accorded to pro se petitioners, the Court will grant his motion to amend.

7. Petitioner filed a motion for default judgment asserting Respondent has not answered the petition within the time set forth by the Court in its order of September 1, 2017. (ECF No. 22). Under that order, Respondent’s answer was due October 31, 2017. No answer has been filed to date, nor has any extension of time to answer been requested.

8. Petitioner’s motion for default judgment is denied. “Default judgment is inapplicable in the habeas context.” *Riley v. Gilmore*, No. 15-351, 2016 WL 5076198, at *1 n.2 (E.D. Pa. Sept. 20, 2016), *certificate of appealability denied sub nom. Riley v. Superintendent Greene SCI*, No. 16-3954, 2017 WL 5068120 (3d Cir. Feb. 9, 2017).

9. Respondent shall be ordered to show cause why the second amended petition should not be granted.

10. An appropriate order follows.

11/20/17
Date


ANNE E. THOMPSON
U.S. District Judge