

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

KYLE T. MULLINGS,

Petitioner,

-v-

SCOTT FINLEY, WARDEN, FCI SCHUYLKILL,

Respondent.

23 Civ. 9603 (PAE)

ORDER TO SHOW CAUSE

PAUL A. ENGELMAYER, District Judge:

On November 1, 2023, petitioner Kyle T. Mullings filed the present petition for a writ of habeas corpus pursuant to 28 U.S.C. § 2241. Dkt. 1. Mullings is the plaintiff in a pending civil action in New York state court, in which he seeks damages for personal injuries arising out of an automobile accident on July 19, 2016. Dkt. 1, Ex. 1 at 2–5 (underlying complaint). He is also an inmate at Federal Correctional Institution, Schuylkill (“FCI Schuylkill”), located in Minersville, Pennsylvania, where he is serving a 12-year term of imprisonment for various offenses.

Judgment, Dkt. 108, *United States v. Mullings*, 19 Crim. 779 (AKH) (S.D.N.Y., entered Jan. 4, 2023); Judgment, Dkt. 388, *United States v. Mullings*, 15 Cr. 854 (SHS) (S.D.N.Y., entered July 26, 2019). Mullings requests that the Court issue the writ to require respondent Scott Finley, Warden of FCI Schuylkill, to produce him for a deposition on December 13, 2023, at 10:00 a.m., to be taken within FCI Schuylkill. Dkt. 1 at 2.

Given the rapidly approaching deadline for Mullings’s scheduled deposition, the Court intends to deal with this matter with dispatch.


First, the Court orders Mullings’s counsel to serve this order upon Mullings by **5 p.m., November 22, 2023**, and promptly to file proof of such service on the docket of this case.

Second, the Court orders the parties' counsel to confer regarding settlement; given the limited scope of Mullings's request (a deposition to be taken within FCI Schuylkill), the Court is skeptical of the need for judicial intervention. Indeed, from the Court's preliminary review of the pertinent regulations (located at 28 C.F.R. § 527.30–.31), it appears that such a deposition (as opposed to, say, in-person testimony at trial) strikes an appropriate balance between the state court's need for Mullings's evidence and FCI Schuylkill's interest in ensuring the safety of its staff and inmates.

Third, in the event the parties are unable to resolve this matter, the Court sets the following briefing schedule for Mullings's petition:

- December 1, 2023: Finley's response to the petition.
- December 6, 2023: Mullings's reply, if any.

SO ORDERED.



PAUL A. ENGELMAYER
United States District Judge

Dated: November 21, 2023
New York, New York