

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NORTH CAROLINA
CHARLOTTE DIVISION
DOCKET NO. 3:14-cv-00399-MOC

ANTONIO MOSELY,)
)
 Petitioner,)
)
 Vs.) ORDER
)
 UNITED STATES OF AMERICA,)
)
 Respondent.)

THIS MATTER is before the court on plaintiff’s “Notice” (#44). The court has carefully read such “Notice” and determined that petitioner seeks relief therein. Petitioner states that:

the United States NEVER filed any Answer or other response to the Petition that was on Appeal. This was another stall tactic by the United States to intentionally delaying their requirement of filing an Answer or other response to Movant 2255 Petition and U.S. Judge Cogburn, Jr. is in cahoot with this buffoonery.

Notice (#44) at 2 (emphasis and errors in the original). Petitioner then states that “Movant Appeal has been denied for lack of Jurisdiction,” id. (error in the original), and then asks this court to inform him of the government’s deadline for filing its Answer and to require the government to “file their Answer or other prespnsive pleading by Certified Mail and Return Receipt.” Id. (errors in the original).

While petitioner is correct that his *first* appeal of this court’s Order (#31) allowing the government additional time to Answer or otherwise respond has been denied, Mosely v. United States, No. 14-7723 (4th Cir. Feb. 19, 2015), petitioner fails to note that his *second* appeal, Mosely v. United States, No. 15-6238 (4th Cir.), which was of this court’s Order (#34) allowing the stay

pending appeal, was still pending when he filed his most recent motion. Between such filing and entry of this Order, the appellate court dismissed petitioner's second appeal.

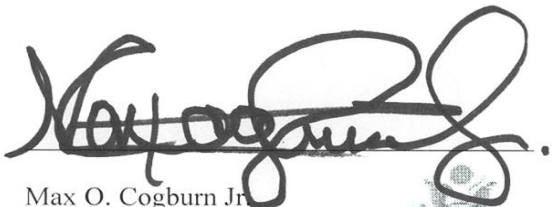
Both appeals now being resolved, the court will now lift the stay and enter a revised scheduling Order setting a deadline for the respondent's Answer or other responsive pleading. The court will not require the respondent to serve petitioner in any manner other than that required under Rule 5, Federal Rules of Civil Procedure.

ORDER

IT IS, THEREFORE, ORDERED that to the extent petitioner seeks relief in his Notice (#44), such relief is denied.

IT IS FURTHER ORDERED that the government Answer or otherwise respond to the Petition within 30 days. Within that time period, the government shall also respond to any still-pending motions petitioner may have filed while this matter was on appeal.

Signed: April 1, 2015



Max O. Cogburn Jr.
United States District Judge

