

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO

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|-------------------------|---|---|
| Frederick Banks, |) | CASE NO. 4:19 CV 2315 |
| |) | |
| Petitioner, |) | JUDGE PATRICIA A. GAUGHAN |
| |) | |
| v. |) | |
| |) | <u>Memorandum of Opinion and Order</u> |
| NASA, et al., |) | |
| |) | |
| |) | |
| Respondents. |) | |

Pro se petitioner Frederick Banks is a well-known frivolous filer in federal court. Although he has been declared a frivolous filer subject to the three-strikes provision of 28 U.S.C. § 1915(g) on numerous occasions and is barred from filing any further civil actions in federal court without prepayment of fees, Banks now attempts to utilize 28 U.S.C. § 2241 to circumvent application of § 1915(g), which does not apply to *habeas corpus* petitions. In this case, Banks has filed a form Petition for a Writ of *Habeas Corpus* under 28 U.S.C. § 2241 against numerous “Respondents,” including NASA, the EPA, Exxon Mobil, the Central Intelligence Agency, and others. (Doc. No. 1.) His only asserted ground is that the Respondents have “engaged in a Conspiracy to pollute and permanently damage the Eco system of the Earth,” for which he seeks, among other relief, discharge from “FISA electronic surveillance & confinement.” (*Id.* at page ID ## 5, 15.)

The Petition is summarily dismissed.

Under 28 U.S.C. § 2243, federal courts conduct initial review of *habeas corpus* petitions. See *Alexander v. Northern Bureau of Prisons*, 419 F. App'x 544, 545 (6th Cir. 2011).

A court must summarily dismiss a petition “if it plainly appears from the petition and any attached exhibits that the petitioner is not entitled to relief.” Rule 4 of the Rules Governing Habeas Corpus Cases Under Section 2254 (applicable to § 2241 petitions under Rule 1(b)). “No return is necessary when the petition is frivolous, or obviously lacking in merit, or where . . . the necessary facts can be determined from the petition itself without need for consideration of a return.” *Allen v. Perini*, 424 F.2d 134, 141 (6th Cir. 1970).

Banks’s Petition is frivolous and obviously lacks merit. In general, *habeas corpus* relief is available to prisoners who contend they are in custody in violation of the Constitution or laws of the United States. *See* 28 U.S.C. §§ 2241, 2254. Banks does not challenge a conviction or sentence, nor does he challenge the manner in which his sentence is being served. Banks’s Petition, in reality, is merely another attempt by him to file a frivolous civil action in federal court without prepayment of fees, which he has been repeatedly barred from doing.

Conclusion

Accordingly, Banks’s Motion to Proceed *In Forma Pauperis* (Doc. No. 2) is denied and his Petition (Doc. No. 1) is summarily dismissed. The Court further certifies that an appeal from this decision could not be taken in good faith and that there is no basis upon which to issue a certificate of appealability. 28 U.S.C. §§ 1915(a)(3), 2253(c).

IT IS SO ORDERED.

Dated: 10/15/19

/s/ Patricia A. Gaughan
PATRICIA A. GAUGHAN
United States District Court
Chief Judge