IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OHIO

David Carl Letner,	**Case No. 4:20 cv 1592**
Petitioner,	
-vs-	**JUDGE PAMELA A. BARKER**
Mark Williams Warden,	**MEMORANDUM OPINION AND ORDER**
Respondent.	

Pro se Petitioner David Carl Letner, a federal inmate incarcerated at FCI Elkton ("Elkton"), has filed a Petition for Writ of *Habeas Corpus* under 28 U.S.C. § 2241. (Doc. No. 1.) He seeks release to home confinement on the basis of COVID-19 circumstances in the prison. He indicates he is 67 years old, has COPD, and contracted COVID-19 after chronic care inmates at Elkton were ordered quarantined by court order. He contends the facility is unable to provide him a safe and healthy environment to recover in light of his chronic condition. (*Id*. at 7-8, ¶13.) He also seeks damages.

Petitioner indicates on the face of his Petition that he has "recourse" in connection with his complaints by way of a pending case before Judge Gwin. (*See* Doc. No. 1 at 4, ¶8 (b).) In fact, he has been identified as a member a subclass of medically-vulnerable inmates at Elkton seeking release to home confinement, or other alternative confinement, on the basis of COVID-19 circumstances in *Wilson, et al. v. Williams, et al.*, No. 4: 20 CV 00794 (N.D. Ohio) (*see* Doc. # 35-1).

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

court must deny a petition "if it plainly appears from the petition and any attached exhibits that the petitioner is not entitled to relief" in the district court. Rule 4 of the Rules Governing § 2254 Cases in the United States District Courts (applicable to § 2241 petitions pursuant to Rule 1(b)).

Upon review, the Court finds the Petition is subject to dismissal under Rule 4. A district court may properly dismiss a *habeas corpus* petition as duplicative where the petition is "essentially the same" as a previously-filed petition. *See Davis v. U.S. Parole Com'n*, 870 F.2d 657, 1989 WL 25837, * 1 (6th Cir. March 7, 1989).

Petitioner's present petition is duplicative of the still-pending *habeas corpus* petition in *Wilson*, in which members of a medically-vulnerable subclass of inmates at Elkton including Petitioner seek release to home or other confinement on the basis of their medical vulnerability and COVID-19 circumstances, as Petitioner also seeks here. *See Wilson*, 2020 WL 1940882, at *6.

Conclusion

Accordingly, Petitioner's motion to proceed *in forma pauperis* (Doc. No. 2) is granted and his Petition is dismissed without prejudice as duplicative of the previously-filed and still pending petition in *Wilson* pursuant to Rule 4 of the Rules Governing *Habeas Corpus* Cases. The Court further certifies, pursuant to 28 U.S.C. § 1915(a)(3), that an appeal from this decision could not be taken in good faith.

IT IS SO ORDERED.

S/ Pamela A. Barker
PAMELA A. BARKER
U. S. DISTRICT JUDGE

Date: August 18, 2020