

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF OHIO  
WESTERN DIVISION**

BRANDON A. MOCKBEE,  
Petitioner,

vs.

WARDEN, MIAMI  
CORRECTIONAL INSTITUTION,  
Respondent.

Case No. 1:17-cv-147

Black, J.  
Litkovitz, M.J.

**ORDER**

This habeas corpus action filed pursuant to 28 U.S.C. § 2254 is before the Court on petitioner's motion for an extension of time to file an answer (Doc. 6),<sup>1</sup> motions to appoint counsel (Doc. 7, 16, 19), motions for hearing (Doc. 15, 25), motion to subpoena records (Doc. 23), motion to hold Miami Correctional account office and person[ne] in contempt of court (Doc. 28), and "motion for leave of Court to attach records and exhibits showing count [5 & 7, 6 & 8] are to be dismissed for insufficiency of the evidence and could not hold to a felony level after the first appeal had vacated counts 1, 2, 3, 5, 7." (Doc. 27). Also before the Court is respondent's motion to file an additional citation. (Doc. 29).

In petitioner's motion to hold Miami Correctional account office and personnel in contempt of court, petitioner claims that his prisoner account has been overdrawn on several occasions, including one withdrawal of \$73.06. (*See* Doc. 28 at PageID 1056). However, the full filing fee in this matter is \$5.00 and the Court has not received any funds from petitioner in connection with this case. Petitioner has filed a similar motion in his prisoner civil rights action also filed in this Court, alleging that Miami Correctional Facility overdraw from his account. *See Mockbee v. Scioto County Adult Parole Auth.*, Case No. 1:17-cv-254 (S.D. Ohio Feb. 2,

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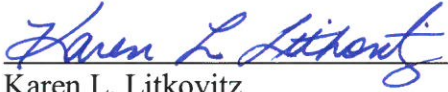
<sup>1</sup> Petitioner filed this motion prior to any response from respondent. (*See* Doc. 6). After respondent filed a motion to dismiss, petitioner filed a second motion for an extension of time, which was granted by Order on June 2, 2017. (Doc. 14). Petitioner has filed two responses in opposition to the motion to dismiss. (*See* Docs. 17, 20).

2018) (Dlott, J.; Litkovitz, M.J.) (Doc. 18).<sup>2</sup> The Court will rule on petitioner's motion in that case. However, because it does not appear that any funds have been withdrawn from petitioner's account in connection with this case, his motion (Doc. 28) is **DENIED**.

In a separate Report and Recommendation issued this date, the undersigned has recommended that petitioner's habeas corpus petition be dismissed for lack of jurisdiction. The above motions that remain pending (Doc. 6, 7, 15, 16, 19, 23, 25, 27, 29) are therefore **DENIED** as moot.

**IT IS SO ORDERED.**

Date: 2/6/2018

  
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Karen L. Litkovitz  
United States Magistrate Judge

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<sup>2</sup> Court records indicate that \$73.06 was withdrawn from petitioner's prisoner account on September 11, 2017 and was applied toward the filing fee in case number 1:17-cv-254. It therefore appears that petitioner's motion is properly brought before the Court in that case.