

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION

ROBERT SPENCER JENKS, III,	:	Case No. 1:17-cv-831
	:	
Petitioner,	:	Judge Timothy S. Black
	:	Magistrate Judge Karen L. Litkovitz
vs.	:	
	:	
WARDEN, ELKTON FEDERAL	:	
CORRECTIONAL INSTITUTION,	:	
	:	
Respondent.	:	

**DECISION AND ENTRY
ADOPTING THE REPORT AND RECOMMENDATION
OF THE UNITED STATES MAGISTRATE JUDGE (Doc. 8)
AND TRANSFERRING THIS CASE TO THE
UNITED STATES COURT OF APPEALS FOR THE SIXTH CIRCUIT**

This case is before the Court pursuant to the Order of General Reference to United States Magistrate Judge Karen L. Litkovitz. Pursuant to such reference, the Magistrate Judge reviewed the pleadings filed with this Court and, on February 26, 2018, submitted a Report and Recommendation. (Doc. 8). No objections were filed.¹

¹ In a response to an earlier Order to show cause issued by the Magistrate Judge, Petitioner moved for the Magistrate Judge’s disqualification from this case. (Doc. 6, at 1). This motion is without merit. This case was properly referred to the Magistrate Judge pursuant to 28 U.S.C. § 636(b) and the Cincinnati General Order of Assignment and Reference. Plaintiff has established no basis that would require recusal.

Although Petitioner did not file objections to the Report and Recommendation, he did file a “motion for immediate relief and release.” That motion requested that the Court order Petitioner’s immediate discharge and release from prison despite providing no legal basis for the extraordinary request and no factual information about his initial conviction (Plaintiff’s initial petition stated that he was convicted of manslaughter by a court-marshal under the Uniform Code of Military Justice, but he has so far declined to identify where his conviction occurred). The Court accordingly denies Plaintiff’s most recent motion (Doc. 9).

As required by 28 U.S.C. § 636(b) and Fed. R. Civ. P. 72(b), the Court has reviewed the comprehensive findings of the Magistrate Judge and considered *de novo* all of the filings in this matter. Upon consideration of the foregoing, the Court does determine that such Report and Recommendation should be and is hereby adopted in its entirety.

Accordingly, **IT IS ORDERED** that:

- 1) Petitioner's motion to disqualify the Magistrate Judge (Doc. 6) is **DENIED**;
- 2) Petitioner's motion for immediate relief and release (Doc. 9) is **DENIED**;
- 3) This matter is **TRANSFERRED** to the United States Court of Appeals for the Sixth Circuit for all further proceedings.

IT IS SO ORDERED.

Date: May 7, 2018

s/ Timothy S. Black
Timothy S. Black
United States District Judge

Plaintiff's response to the Order to Show Cause indicated that his petition for writ of habeas corpus was intended to be filed directly in the United States Court of Appeals for the Sixth Circuit pursuant to the All Writs Act, 28 U.S.C. § 1651. A review of the petition clearly supports this argument. *See* Doc. 1, caption; *see also id.* at 41 (invoking the All Writs Act). Plaintiff's petition was not intended by Petitioner to have been filed with this District Court, and so the Court orders the transfer of this case to the United States Court of Appeals for the Sixth Circuit. This Court makes no determination regarding Plaintiff's jurisdictional arguments or the merits of his claims.