

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION AT DAYTON**

MALACHI KADAR BEY
aka Todd Jamal Clark,

Petitioner,

-vs-

MONTGOMERY COUNTY SHERIFF
PHIL PLUMMER, et al.,

Respondents.

:

Case No. 3:11-cv-439

:

District Judge Thomas M. Rose
Magistrate Judge Michael R. Merz

DECISION AND ORDER

This habeas corpus action is before the Court on Petitioner’s “Affidavit of Fact (Petitioners [sic] Status) (Doc. No. 4). In that document, Petitioner avers that this Court “was notified of an Affidavit of Financial Status” and responded with “an affidavit stating that they would like proof of the petitioners [sic] nationality and status.” That is untrue. This Court’s response to Petitioner’s filing of his “Affidavit of Financial Statement” was to recommend that the case be dismissed for failure either to pay the filing fee or apply to proceed *in forma pauperis*. (Report and Recommendations, Doc. No. 2). Petitioner has not yet filed an objection to that Report. If he fails to do so by January 3, 2012, the deadline set by the Federal Rules of Civil Procedure, it is probable that the District Judge assigned to this case will adopt the Report and dismiss the case.

In the body of his “Affidavit,” Petitioner also moves “that the courts acknowledge this lawful writ and the petitioner’s Nationality and Status.” (Doc. No. 4, PageID 18) The document does not

constitute a “lawful writ.” This Court offers no opinion on whether the attachment operates to change Petitioner’s name or nationality, as such questions are beyond the limited jurisdiction of this Court. Whatever the legal purport of the document, it does not give Petitioner the right to proceed in this Court on a petition for writ of habeas corpus without either paying the filing fee or receiving permission to proceed *in forma pauperis*.

This case is also before the Court on Petitioner’s “Affidavit of Fact (Motion to Vacate Prosecutors [sic] Motion to Dismiss, Suits)” (Doc. No. 5). There is no such motion to dismiss filed by prosecutors or anyone else pending in this Court and the “Affidavit of Fact” is accordingly ordered STRICKEN as frivolous.

December 30, 2011.

s/ **Michael R. Merz**
United States Magistrate Judge