

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF OKLAHOMA**


RICHARD CHARLES HAWKINS, JR.,)	
)	
)	
Petitioner,)	
)	
v.)	Case No. CIV-15-106-R
)	
)	
UNITED STATES OF AMERICA,)	
)	
Respondent.)	

ORDER

On January 29, 2015, the Clerk of Court received a "Motion to Amend the Courts Sentencing Order and or a Nunc Pro Tunc Order Designignating (sic) the Bureau of Prisons to Correct the Starting Date of Petitioner's Federal Sentence." (Doc. No. 1). The motion was filed in the criminal case noted on the front page, CR-09-24-M, and for reasons unknown to the undersigned, the matter was also opened as a petition for writ of habeas corpus and assigned the above number. The matter was referred to United States Magistrate Judge Suzanne Mitchell for preliminary review, and she ordered Petitioner to either pay the \$5.00 filing fee or to cure his deficiency with regard to proceeding *in forma pauperis*. Simultaneously the matter was proceeding in the context of Mr. Hawkin's criminal case. The matter is currently before the Court on Judge Mitchell's Report and Recommendation wherein she recommends that this matter be dismissed because the issue is being addressed in the criminal action by the assigned judge of this Court. Petitioner has not objected to the Report and Recommendation, and the Court therefore DISMISSES the action in accordance

with Judge Mitchell's recommendation. In the interim, however, Petitioner paid the \$5.00 filing fee, which should not have been assessed as this action was opened in error through no fault of Mr. Hawkins. The Clerk of Court is hereby ordered to REFUND the filing fee to Petitioner.

IT IS SO ORDERED this 29th day of April, 2015.



DAVID L. RUSSELL
UNITED STATES DISTRICT JUDGE