

FILED 11 JAN 19 17:45 USDC-ORE

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF OREGON  
EUGENE DIVISION

ROBERT LARRY SISSON,

Petitioner,

Civil No. 10-1175-HO

v.

ORDER

JOHN KROGER,

Defendants.

HOGAN, District Judge.

Petitioner filed a petition under 28 U.S.C. sec. 2254 challenging a December 19, 2006 conviction for which he was sentenced to 7 days of incarceration and 24 months supervised release.

Accordingly, based on the allegations of the petition, it appears that petitioner sentence has been completely served or has expired and that petitioner is not in custody for purposes of challenging the conviction he seeks to challenge in this proceeding.

By Order (#3) entered November 1, 2010, petitioner was allowed 30 days to show cause in writing why this proceeding

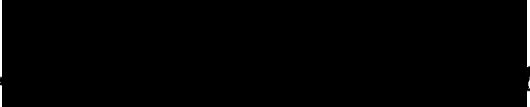
should not be dismissed on the ground that he is not in custody for purposes of 28 U.S.C. § 2254. Petitioner was subsequently allowed an extension of time until January 10, 2011, to show cause as directed by the court. See, Order (#5) entered January 2, 2011.

On January 10, 2011, petitioner filed a brief purporting to establish that he is "in custody" because "his DNA is being unlawfully held in federal custody." Reply (#6) p. 2.

Petitioner has not cited any recognizable authority in support of his argument which is interesting but not convincing. Petitioner acknowledges that his sentenced has been served or is otherwise expired. Thus, for the reasons set forth in the court's Order (#3), petitioner's Petition (#1) is denied. This proceeding is dismissed.

IT IS SO ORDERED

DATED this 19<sup>th</sup> day of January, 2011.

  
Michael R. Hogan  
United State District Judge