

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

JAMES ROBERT DAVIS,)	
)	
Petitioner,)	Civil Action No. 17-674
)	
v.)	Judge Cathy Bissoon
)	Magistrate Judge Robert C. Mitchell
BRIAN MILLER,)	
)	
Respondent.)	

ORDER DISMISSING CASE

Pro se Petitioner James Robert Davis initiated this action by filing a “Motion for Proper Relief” (Doc. 1) in the United States District Court for the Northern District of West Virginia on May 18, 2017. By Order dated May 22, 2017 (Doc. 3), United States Magistrate Judge Michael J. Aloi transferred this action to the Western District of Pennsylvania because Petitioner seeks to challenge a federal detainer issued by the Western District of Pennsylvania and because Petitioner is incarcerated at the Fayette County Prison, which is within the jurisdiction of this Court. This action was referred to United States Magistrate Judge Robert C. Mitchell in accordance with the Magistrates Act, 28 U.S.C. § 636, and Local Rule of Civil Procedure 72.

On July 7, 2017, the Magistrate Judge issued an Order to Show Cause (Doc. 5) ordering Petitioner to show, on or before July 21, 2017, why his Motion should not be dismissed as moot. Petitioner, despite ample time to respond to this Order, has failed to respond in any way.

In his “Motion for Proper Relief,” Petitioner states that, in 2003, he was sentenced to five years of imprisonment to be followed by three years of probation. ¶¶ 1-2. Based on this, he alleges that his probation should have begun in 2008 and ended in 2011 and, further, that his detention for a supervised release violation that occurred in 2017 improperly exceeded the term

of his initial sentence. ¶¶ 7-13. Upon reviewing the records of this Court, including the filings at Criminal Action No. 15-235, the Magistrate Judge found that: (1) supervision of Petitioner's release was transferred to this Court on November 4, 2015; (2) Petitioner's federal supervision commenced on February 3, 2015 and not in 2008 as Petitioner believes; (3) Petitioner was detained pursuant to an arrest warrant issued by the Court on May 3, 2017 (Criminal Action No. 15-235, Doc. 11); (4) Petitioner's detainer has been lifted; and (5) Petitioner has been sentenced to imprisonment for his violation of supervised release. Thus, Petitioner was ordered to "show cause, if any, why the instant 'motion' should not be dismissed as moot." These findings were mailed to Petitioner at his address of record on July 7, 2017. Yet, Petitioner has taken no action.

In light of Petitioner's failure to prosecute this action, dismissal is warranted under Poulis v. State Farm Fire & Cas. Co., 747 F.2d 863 (3d Cir. 1984). Specifically, the Court relies on the Poulis factors regarding Plaintiff's personal responsibility; unresponsiveness; failure to demonstrate excusable neglect; and the lack of effective, alternative sanctions. Id. at 868. Simply put, Plaintiff's failure to respond and seeming disinterest in prosecuting this case leave no meaningful alternative to a dismissal.

For all of these reasons, this case is DISMISSED WITH PREJUDICE.

IT IS SO ORDERED.

November 16, 2017

s/Cathy Bissoon

Cathy Bissoon

United States District Judge

cc (via First-Class U.S. mail):

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