

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

ALVIN MELVILLE THOMAS,)	
)	
Petitioner,)	
)	
v.)	Civil Action No. 3:24-78
)	Judge Nora Barry Fischer
WARDEN UNDERWOOD,)	Magistrate Judge Keith Pesto
)	
Respondent.)	

MEMORANDUM ORDER

AND NOW, this 3rd day of January, 2025, upon consideration of the Report and Recommendation filed by United States Magistrate Judge Keith A. Pesto on June 3, 2024, (Docket No. 9), recommending that the § 2241 habeas petition filed by Petitioner Alvin Melville Thomas against Warden Underwood at FCI Loretto be dismissed preservice as his claims that the U.S. District Court for the Northern District of Ohio lacked jurisdiction to revoke his supervised release and sentence him to 6 months’ incarceration on December 13, 2023 failed to meet the stringent pleading requirements for habeas petitions, Petitioner’s objections which were timely filed within 14 days as directed by the Magistrate Judge, (Docket No. 11), this matter having been recently reassigned to the undersigned for prompt disposition of the matter, (Docket No. 12), and upon independent review of the record and de novo consideration of the Magistrate Judge’s Report and Recommendation, which is ADOPTED as the opinion of this Court, in part, as it further appears to the Court that Petitioner was subsequently released from BOP custody on the 6-month violation sentence, is no longer present in this District, and is currently subject to pretrial detention at MDC Guaynabo MDC in Puerto Rico awaiting transfer on another violation petition issued by the Northern District of Ohio, such that his Petition challenging his prior revocation sentence must

also be dismissed, as moot, *see e.g., Malik v. Warden Loretto FCI*, No. 23-2281, 2024 WL 3649570, at *2 (3d Cir. Aug. 5, 2024) (“Because Malik had been released to prerelease custody, his request for release to such custody was moot. [...] Regardless of whether his request for an earlier transfer to supervised release was moot at the time of the Magistrate Judge’s order or simply meritless because he had already received the maximum credit allowed towards an earlier release from custody to supervised release, see § 3624(g)(3), such a request is moot now that Malik is on supervised release.”); *Constantine v. United States*, No. 1:23-CV-22, 2023 WL 6811999, at *2 (W.D. Pa. Aug. 28, 2023), *report and recommendation adopted*, No. CV 23-22, 2023 WL 6810862 (W.D. Pa. Oct. 16, 2023) (“Since the BOP released Petitioner from its custody, there is no longer any habeas relief that this Court can provide.”);

IT IS HEREBY ORDERED that Petitioner’s Objections (Docket No. 11) are OVERRULED;

IT IS FURTHER ORDERED that the Petition (Docket No. 7) is DISMISSED for lack of jurisdiction under 28 U.S.C. § 2255(e), and insofar as he has been released from the challenged sentence, the Petition is dismissed, with prejudice, as moot;

IT IS FURTHER ORDERED that no certificate of appealability shall issue; and,

FINALLY, IT IS ORDERED that the Clerk of Court shall mark this case CLOSED.

s/Nora Barry Fischer
Nora Barry Fischer
Senior U.S. District Judge

cc/ecf: Magistrate Judge Keith A. Pesto
cc: Alvin M. Thomas
BOP Register No. 09468-094
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