

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF TENNESSEE  
AT KNOXVILLE

|                       |   |                          |
|-----------------------|---|--------------------------|
| MIKE SETTLE,          | ) |                          |
|                       | ) |                          |
| Petitioner,           | ) |                          |
|                       | ) |                          |
| v.                    | ) | No.: 3:15-CV-470-TAV-HBG |
|                       | ) |                          |
| BUREAU OF PRISONS and | ) |                          |
| WARDEN HAMBY,         | ) |                          |
|                       | ) |                          |
| Respondents.          | ) |                          |

**MEMORANDUM & ORDER**

This is a pro se state prisoner’s petition for a writ of habeas corpus filed under 28 U.S.C. § 2241 [Doc. 2]. The Respondents are the Bureau of Prisons and Warden Hamby of the Morgan County Correctional Complex, where Petitioner is incarcerated [*Id.*]. Petitioner’s application for leave to proceed *in forma pauperis*, which reflects that he has a zero (“0”) sum to his credit in his inmate trust account, is **GRANTED** [Doc. 1]. However, no answer will be required, and this petition will be **DISMISSED**.

This pleading is a carbon copy of a petition for a writ of habeas corpus under 28 U.S.C. § 2241 filed previously in this Court. *See Settle v. Bureau of Prisons*, No. 3:15-CV-385-TAV-HBG (E.D. Tenn. 2015). Faced with a duplicative suit, such as this one, a federal court may exercise its discretion to stay or dismiss the suit before it, allow both federal cases to proceed, or enjoin the parties from proceeding in the other suit. *See Smith v. SEC*, 129 F.3d 356, 361 (6th Cir. 1997).

With respect to duplicative suits, the Sixth Circuit has stated

“[S]imple dismissal of the second suit is [a] common disposition because plaintiffs have no right to maintain two actions on the same subject in the same court, against the same defendant at the

same time.” *Curtis v. Citibank, N.A.*, 226 F.3d 133, 138-39 (2d Cir. 2000); *see also Missouri v. Prudential Health Care Plan, Inc.*, 259 F.3d 949, 953-54 (8th Cir. 2001) (joining other courts that have held a district court may dismiss one of two identical pending actions).

*Twaddle v. Diem*, 200 F. App’x 435, 438 (6th Cir. 2006) (alterations in original).

Accordingly, this Court will exercise its discretion and will **DISMISS** this § 2241 petition **without prejudice**. *See Slack v. McDaniel*, 529 U.S. 473, 478 (2000) (“Federal courts do, however, retain broad powers to prevent duplicative or unnecessary litigation.”); *Christian v. Trombley*, No. 2:07-10900, 2007 WL 1266167, at \*1 (E.D. Mich. Apr. 30, 2007) (dismissing a duplicate habeas corpus petition without prejudice).

A certificate of appealability will not issue because Petitioner has not demonstrated “that jurists of reason would find it debatable whether the petition states a valid claim of the denial of a constitutional right, and that jurists of reason would find it debatable whether the district court was correct in its procedural ruling.” *Slack*, 529 U.S. at 478.

Finally, the Court **CERTIFIES** that any appeal in this matter would not be taken in good faith, 28 U.S.C. § 1915(a)(3), and leave to appeal *in forma pauperis* is **DENIED**. If Petitioner files a notice of appeal, he must pay the full \$505 appellate filing fee or file a motion to proceed *in forma pauperis* and a supporting affidavit in the Sixth Circuit Court of Appeals, within 30 days of the date of filing of the notice. *See Fed. R. App. P. 24(a)(5)*.

**AN APPROPRIATE ORDER WILL ENTER.**

s/ Thomas A. Varlan  
CHIEF UNITED STATES DISTRICT JUDGE