

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TENNESSEE
EASTERN DIVISION

KELLY WRIGHT,

Petitioner,

v.

No. 1:16-cv-01080-JDB-jay

No. 1:12-cr-10128-JDB-1

UNITED STATES OF AMERICA,

Respondent.

ORDER DIRECTING CLERK TO FILE DOCUMENT AND TERMINATE MOTION,
GRANTING MOTION TO SUPPLEMENT THE AMENDED PETITION,
AND
DIRECTING THE UNITED STATES TO RESPOND

On April 28, 2016, Petitioner, Kelly Wright, filed a pro se motion to vacate, set aside, or correct his sentence (the “Petition”), pursuant to 28 U.S.C. § 2255. (No. 1:16-cv-01080-JDB-jay, Docket Entry (“D.E.”) 1.) The Court ordered Wright to file an amended petition on the Court’s official § 2255 form. (*Id.*, D.E. 5.) Petitioner filed his amended petition (the “Amended Petition”) within the time prescribed by the Court’s order, asserting a single claim under *Mathis v. United States*, 136 S. Ct. 2243 (2016). (*Id.*, D.E. 6.) On October 19, 2018, he filed a document in his criminal case styled “Motion for Leave to Amend the Pleadings to Add an Issue of Ineffective Assistance of Counsel Regarding a Variance and Mental Health Issue” (“Motion to Supplement”). (*United States v. Wright*, No. 1:12-cr-10128-JDB-1, D.E. 36.) Because it appears that Wright incorrectly filed the document in his criminal case, the Clerk of Court is DIRECTED to file the Motion to Supplement in No. 1:16-cv-01080-JDB-jay, and terminate the motion in No. 1:12-cr-10128-JDB-1. The motion is GRANTED, but without prejudice to Respondent’s right to assert any appropriate affirmative defenses.

Respondent is ORDERED to file a response to the Amended Petition and the supplemental claim within twenty-eight days from the date of this order. *See* Rules Governing § 2255 Proceedings for the United States District Courts (“Habeas Rules”), Rule 5(a).

Petitioner may, if he chooses, submit a reply to Respondent’s answer or response within twenty-eight days of service. *See* Habeas Rule 5(d). Wright may request an extension of time to reply by filing a motion on or before the due date of his reply.

IT IS SO ORDERED this 19th day of April 2019.

s/ J. DANIEL BREEN
UNITED STATES DISTRICT JUDGE