
UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TEXAS

TODD WARREN ALTSCHUL,

Petitioner,

versus

UNITED STATES OF AMERICA,

Respondent.

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CIVIL ACTION NO. 1:18-CV-34

**MEMORANDUM ORDER OVERRULING PETITIONER'S OBJECTIONS AND
ADOPTING THE MAGISTRATE JUDGE'S REPORT AND RECOMMENDATION**

Petitioner Todd Warren Altschul, a federal prisoner, proceeding *pro se*, brought this petition for writ of habeas corpus pursuant to 28 U.S.C. § 2241.

The court referred this matter to the Honorable Keith F. Giblin, United States Magistrate Judge, at Beaumont, Texas, for consideration pursuant to applicable laws and orders of this court. The magistrate judge recommends that petitioner should be denied permission to proceed as a sanctioned litigant. Additionally, the magistrate judge recommended the respondent's motion to dismiss should be granted, and the above-styled petition should be dismissed without prejudice.

The court has received and considered the Report and Recommendation of United States Magistrate Judge, along with the record, pleadings and all available evidence. Petitioner filed objections to the magistrate judge's Report and Recommendation. This requires a *de novo* review of the objections in relation to the pleadings and the applicable law. *See* FED. R. CIV. P. 72(b). After careful consideration, the court concludes petitioner's objections are without merit.

On September 15, 2003, petitioner was convicted by a federal jury of one count of assaulting a federal officer, in violation of 18 U.S.C. § 111. *See United States v. Altschul*,

Criminal Action No. 1:03cr19 (E.D. Tex. 2003). On February 12, 2004, the court sentenced him to serve 120 months in prison and a three-year term of supervised release. The court imposed this term of imprisonment to run consecutively to several undischarged terms of incarceration petitioner had been sentenced to serve. Petitioner's conviction and sentence were affirmed on appeal. *See United States v. Altschul*, No. 04-40284 (5th Cir. 2004).

In this petition for writ of habeas corpus, petitioner complains that this court's amended judgment is unconstitutionally delaying the start of his federal sentence. Additionally, petitioner claims the Sentencing Guidelines require the sentence to be concurrent to his state sentences. However, the amended judgment merely corrected clerical errors and did not modify his sentence in any respect. The judgment properly provides that the criminal judgment is to run consecutively to his state sentences. Thus, petitioner's claim is without merit.

Further, petitioner is seeking permission to proceed in this action as a sanctioned litigant. However, as explained in the magistrate judge's report, petitioner has a long history of abusive and fraudulent filing practices which have resulted in multiple sanctions being imposed against him. In fact, a review of the docket in this action reveals that petitioner continues in his campaign of fraudulent and abusive litigation. *See Dok. # 28 - Order from the Court of Federal Claims and United States District Court for the Northern District of Texas*. Therefore, petitioner should be denied permission to proceed as a sanctioned litigant, and this action should be dismissed.

ORDER

For the reasons set forth above and in the magistrate judge's report, petitioner's objections are **OVERRULED**. The findings of fact and conclusions of law of the magistrate judge are correct, and the report of the magistrate judge is **ADOPTED**. Accordingly, it is

ORDERED that the respondent's motion to dismiss is **GRANTED**. A final judgment will be entered in this case in accordance with the magistrate judge's recommendation.

SIGNED at Beaumont, Texas, this 10th day of March, 2020.

A handwritten signature in cursive script that reads "Marcia A. Crone".

MARCIA A. CRONE
UNITED STATES DISTRICT JUDGE