

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
Norfolk Division



WILLIAM SCOTT DAVIS, JR., #84944-083,

Petitioner,

v.

ACTION NO. 2:17CV514

JEFF SESSIONS,
U.S. Attorney General, et al.,

Respondents.

FINAL ORDER

Petitioner William Scott Davis ("Davis" or "Petitioner") originally filed a petition for a writ of habeas corpus (Case No. 2:17cv514) on September 22, 2017, while incarcerated at Piedmont Regional Jail in Farmville, Virginia. He was, at that time, awaiting trial in the U.S. District Court for the Eastern District of North Carolina on charges related to cyberstalking and communicating threats by interstate and foreign means. Davis' Petition¹ under 28 U.S.C. § 2241, challenges both the fact of his pretrial detention and the conditions of that detention. On February 23, 2018, Davis filed a second § 2241 Petition (Case No. 2:18cv104) alleging substantially similar claims.

On March 22, 2018, Davis was convicted on charges of

¹ And a "Supplemental Petition," filed in the same case (ECF No. 22). The court considers both documents together to constitute his Petition. See Erickson v. Pardus, 551 U.S. 89, 94 (2007) (noting that pleadings from pro se parties should be "liberally construed").

threatening communications. He was then transferred to a federal prison in Maryland to serve the 12-year prison term included in his sentence. Following his conviction, Davis sought to consolidate both his habeas cases and transfer the consolidated case to Maryland.

Both matters were referred to a United States Magistrate Judge pursuant to the provisions of 28 U.S.C. § 636(b)(1)(B) and (C) and Rule 72 of the Rules of the United States District Court for the Eastern District of Virginia for report and recommendation. The Report and Recommendation of the Magistrate Judge filed on August 20, 2018, recommends the court grant Davis' Motions to Consolidate (Case No. 2:17cv514, ECF No. 54; Case No. 2:18cv104, ECF No. 16). The Report also recommends dismissing as moot Davis' original Petition and Supplemental Petition (Case No. 2:17cv514, ECF Nos. 1, 22) and his Petition filed in Case No. 2:18cv104 (ECF No. 1). Finally, the Report recommends terminating as moot the remaining 34 pending motions (Case No. 2:17cv514, ECF Nos. 27-28, 36-37, 40-45, 49-56, 58, 61-62,; and Case No. 2:18cv104, ECF Nos. 3-4, 8-9, 11-12, 16-19, 23, 25, 27).

By copy of the Report, each party was advised of his right to file written objections to the findings and recommendations made by the Magistrate Judge. On September 11, 2018, the court received Petitioner's Objections to Magistrate's Report and Recommendation (Case No. 2:17cv514, ECF No. 73; Case No. 2:18cv104, ECF No. 33). The Respondent has filed no response to the objections and the time

for responding has now expired.

The court, having reviewed the record and examined the objections filed by the petitioner to the Magistrate Judge's Report and having made de novo findings with respect to the portions objected to, does hereby adopt and approve the findings and recommendations set forth in the Report of the United States Magistrate Judge filed August 20, 2018. For the reasons stated in the Report, it is therefore ORDERED as follows:

1. Motion to Consolidate (2:17cv514, ECF No. 54) and Motion to Consolidate (2:18cv104, ECF No. 16) are GRANTED and the Clerk is DIRECTED to CONSOLIDATE the two cases under Case No. 2:17cv514.

2. The Petition (2:17cv514, ECF No. 1), Supplemental Petition (2:17cv514, ECF No. 22) and Petition (2:18cv104, ECF No. 1) are DISMISSED AS MOOT.

3. All remaining pending motions (ECF Nos. 27-28, 36-37, 40-45, 49-56, 58, 61-62, in Case No. 2:17cv514; and ECF Nos. 3-4, 8-9, 11-12, 16-19, 23, 25, 27, in Case No. 2:18cv104) are TERMINATED AS MOOT.

4. The case is DISMISSED without prejudice to Davis' right to refile in the appropriate court any claims he has under 28 U.S.C. § 2255 related to his conviction and sentence.

Petitioner may appeal from the judgment entered pursuant to this Final Order by filing a written notice of appeal with the Clerk of this court, United States Courthouse, 600 Granby Street, Norfolk, Virginia 23510, within sixty (60) days from the date of

entry of such judgment.

Petitioner has failed to demonstrate "a substantial showing of the denial of a constitutional right," therefore, the Court declines to issue any certificate of appealability pursuant to Rule 22(b) of the Federal Rules of Appellate Procedure. See Miller-El v. Cockrell, 123 S.Ct. 1029, 1039 (2003).

The Clerk shall mail a copy of this Final Order to petitioner and provide an electronic copy of the Final order to counsel of record for respondent.

/s/ 

MARK S. DAVIS,
UNITED STATES DISTRICT JUDGE

Norfolk, Virginia

Oct. 9, 2018