

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WISCONSIN

SYLVESTER THOMAS,

Petitioner,

v.

STATE OF WISCONSIN et al,

Respondent(s).

ORDER

12-cv-79-bbc

Sylvester Thomas, a patient at the Sand Ridge Secure Treatment Center in Mauston, Wisconsin, has submitted a document titled “Supplemental Motion to Dismiss Chapter 980 Petition Pursuant to Fed. R. C.I.V.P 15(a) & 15(d) or to Withdraw His Plea Agreement Under Wis. Stat. 971.08 Due to Miscarriage of Justice.” In his submission, petitioner asks this court to “submit a writ of execution of the defendant.” He also asks to have his Chapter 980 petition dismissed or to grant him the authority to withdraw his plea agreement. Petitioner includes a motion for leave to proceed in forma pauperis with his submission.

First, I note that on November 9, 2010, the United States Court of Appeals for the Seventh Circuit issued an order sanctioning petitioner under Fed. R. App. P. 38 for repeatedly filing frivolous lawsuits. Thomas v. Van Hollen, No. 10-3144, slip op. (Nov. 9, 2010). The court issued an order under Support Systems International, Inc. v. Mack, 45

F.3d 185 (7th Cir. 1995), prohibiting petitioner from filing any new civil litigation in the federal courts of this circuit, and from filing any new documents in pending civil litigation, other than any submissions in criminal prosecutions or genuine motions for release from custody under 28 U.S.C. § 2254, until he pays a \$1000 fine.

Turning to petitioner's submission, I note that it is not entirely clear what he is filing. If petitioner wants to have his Chapter 980 petition dismissed or to withdraw his plea agreement regarding his commitment, then he should seek relief in the state court system. To the extent that he believes that he is being held in violation of the Constitution, he is free to file a petition for a writ of habeas corpus under 28 U.S.C. § 2254. Petitioner is advised that before a federal court may consider the merits of a state habeas petitioner's claims, the petitioner must exhaust the remedies available to him in the state courts. 28 U.S.C. § 2254(b)(1)(A); O'Sullivan v. Boerckel, 526 U.S. 838, 845 (1999); Perruquet v. Briley, 390 F.3d 505, 514 (7th Cir. 2004). If petitioner is attempting to file a petition for a writ of habeas corpus, I have enclosed with this order the forms and instructions for filing a petition for such a writ.

ORDER

IT IS ORDERED that

1. Petitioner Sylvester Thomas's submission titled "Supplemental Motion to Dismiss Chapter 980 Petition Pursuant to Fed. R. C.I.V.P 15(a) & 15(d) or to Withdraw His Plea Agreement Under Wis. Stat. 971.08 Due to Miscarriage of Justice," dkt. #1, is DENIED.
2. Petitioner's motion for leave to proceed in forma pauperis, dkt. #2, is DENIED

as moot; and

3. The clerk of court is directed to close this case. Petitioner will not owe a filing fee for filing this action.

Entered this 15th day of February, 2012.

BY THE COURT:
/s/
BARBARA B. CRABB
District Judge