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[DO NOT PUBLISH]

IN THE UNITED STATES COURT OF APPEALS
FOR THE ELEVENTH CIRCUIT

No. 18-10548
Non-Argument Calendar

D.C. Docket No. 1:17-cv-04837-TWT

ANNAMALAI ANNAMALAI,

Petitioner-Appellant,

versus

WARDEN,

Respondent-Appellee.

Appeal from the United States District Court
for the Northern District of Georgia

(January 17, 2019)

Before WILLIAM PRYOR, GRANT and HULL, Circuit Judges.

PER CURIAM:

Annamalai Annamalai is a federal prisoner serving a total 327-month sentence after being convicted of numerous federal offenses arising out of various fraud schemes. Annamalai, pro se, appeals the district court's dismissal of his 28 U.S.C. § 2241 petition for a writ of habeas corpus and amended § 2241 petition. After review, we affirm.

I. FACTUAL BACKGROUND

A threshold issue is whether Annamalai's claims are (1) cognizable in a § 2241 petition or (2) a challenge to his sentence which must be brought in a 28 U.S.C. § 2255 motion. To answer that question, we first review the nature of Annamalai's claims and what happened in the district court.

A. 2015 Criminal Judgment in the Northern District of Georgia

In August 2014, after a two-week jury trial, Annamalai was convicted of 34 counts of 10 different federal offenses, including conspiracy to commit bank fraud, bank fraud, tax fraud, conspiracy to commit bankruptcy fraud, bankruptcy fraud, money laundering, perjury, perjury in a bankruptcy proceeding, obstruction of justice, and conspiracy to harbor a fugitive.

On July 14, 2015, the district court sentenced Annamalai to a total of 327 months' imprisonment. On July 16, 2015, the district court signed the written Judgment and Commitment Order ("the Judgment") sentencing Annamalai and committing him to the custody of the Bureau of Prisons ("BOP") to be imprisoned

for that time period. The Judgment was filed on the district court's docket that day too. Annamalai's counseled direct appeal of his convictions and total sentence is pending before this Court.

This § 2241 lawsuit, however, concerns only the "Return" form at the bottom of the Judgment, which Annamalai contends was not properly executed. After Annamalai was sentenced, he was sent to Federal Correctional Institution ("FCI") Williamsburg. For this initial transfer to FCI-Williamsburg, there is a completed Return form. Specifically, the executed Return filed on the district court's docket states: "Defendant delivered on 9/25/15 to FCI WIL at Salters, SC, with a certified copy of this judgment." The signature on the Return form is: "For: B.J. Meeks, Warden By: J. Scott, CSO." That executed Return appears at the bottom of a copy of the July 2015 Judgment and was filed in Annamalai's criminal case on December 4, 2017.

B. Annamalai's Custody Transfers

This lawsuit primarily involves Annamalai's claims that at each subsequent transfer between prisons, the BOP was required by federal law to endorse and file similar return documentation again with the district court indicating each of his BOP transfers and continuing commitment.

After FCI-Williamsburg, Annamalai was transferred to the United States Penitentiary ("USP") Atlanta, where he was housed at the time he filed the instant

§ 2241 petition. Annamalai is currently housed at USP-Marion in Illinois. No additional Returns were filed in the district court reflecting the BOP's transfers of Annamalai to USP-Atlanta and USP-Marion.

II. DISTRICT COURT PROCEEDINGS

A. 28 U.S.C. § 2241 Petition

On November 30, 2017, Annamalai filed a pro se § 2241 petition challenging the execution of his sentence. Annamalai alleged that he is being unlawfully held by the BOP because the Return on the Judgment in his criminal case was not “endorsed” and filed in the district court by each of his prison wardens. In support of his claims, Annamalai’s § 2241 petition relies on (1) 18 U.S.C. § 3621(c), and (2) the BOP’s regulations in Program Statement 5800.18 (“P5800.18”) § 202.

Section 3621(c) provides that when a prisoner is placed in custody of a prison, the original court order “with the return endorsed thereon” shall be returned to the district court, as follows:

When a prisoner, pursuant to a court order, is placed in the custody of a person in charge of a penal or correctional facility, a copy of the order shall be delivered to such person as evidence of this authority to hold the prisoner, and the original order, with the return endorsed thereon, shall be returned to the court that issued it.

18 U.S.C. § 3621(c).

In part, P5800.18 in the BOP's Receiving and Discharge Manual also describes commitment documentation and provides that the Return on the second page of the Judgment "must be properly executed by staff," as follows:

202. COMMITMENT DOCUMENTATION

Commitment documentation is carefully reviewed to verify the inmate's commitment to the designated facility and to alert institution staff to significant facts about the inmate. The following is a list of documentation normally used to commit prisoners to Bureau facilities:

a. Judgment in a Criminal Case (J&C). This is issued by a Federal court on a sentenced inmate. It prescribes the specific sentencing provisions of the court. A certified copy of the J&C accompanies the inmate's initial arrival to the designated institution . . . This document must bear the signature of the judge and the court's seal. The "Return" on the reverse side, or second page, must be properly executed by staff. If the certified copy of the Judgment has not been executed, staff at the designated institution execute it upon the inmate's arrival.

Bureau of Prisons, P5800.18, Receiving and Discharge Manual § 202 (2014)
(citation omitted).

Because of the lack of executed and filed Returns indicating his transfers between prisons, Annamalai contends that he is being illegally confined by the BOP. Notably, neither § 3621(c) nor the BOP Manual state whether this Return should occur at the first custody facility or also at each subsequent facility.

B. Magistrate Judge's Report

On December 18, 2017, a magistrate judge sua sponte issued a report and recommendation ("R&R") that Annamalai's § 2241 petition be summarily dismissed. Contrary to Annamalai's allegation, the magistrate judge found that

Annamalai's Judgment, signed by the presiding district court judge and committing Annamalai to BOP custody at FCI-Williamsburg, had a Return that was endorsed and filed on his criminal case docket. The magistrate judge also noted that Annamalai was a frequent litigant in federal court, having filed over 48 civil actions in 16 federal district courts and over 24 appeals in 5 federal courts of appeal as of December 13, 2017.¹

C. "Verified" Second Brief, Amended § 2241 Petition, and Objections to R&R

In a "verified" second brief, Annamalai addressed the Judgment containing the executed Return as to his arrival at FCI-Williamsburg. Annamalai argued that the document was fraudulent because it was not filed in the district court until 2017 and was entered only to conceal his unlawful custody. He contended that the top of that document with the executed Return is captioned as "Judgment in a Criminal Case" rather than a "Judgment in a Criminal Case and Commitment Order." He complained that the Return was not executed by the United States Marshal ("USM"), did not bear the court's seal and stamp and the clerk's signature, and did not comply with Federal Rule of Criminal Procedure 32(k).

Annamalai pro se then filed an amended § 2241 petition. Annamalai alleged that he was advised by the deputy clerk of the district court that there was no

¹In this Court, Annamalai earlier appealed the magistrate judge's R&R before the district court ruled. We dismissed his appeal for lack of subject matter jurisdiction.

Judgment with an executed Return bearing the clerk's signature and the court's seal to hold him in custody in the Northern District of Georgia. He asserted that communications with individuals revealed that he was being held illegally.

Annamalai also objected to the magistrate judge's R&R. He argued that the magistrate judge erred by: (1) not considering his amended § 2241 petition; (2) noting his litigation history, which he contended was false and irrelevant; and (3) relying on the executed Return from FCI-Williamsburg filed on his criminal docket in 2017, which he contended showed that the magistrate judge did not understand that he was not challenging his past custody at FCI-Williamsburg but his then-current custody at USP-Atlanta.

D. Supplement to Magistrate Judge's R&R

The magistrate judge supplemented the R&R, addressing Annamalai's "verified" second brief and his amended § 2241 petition. The magistrate judge found that Annamalai's fraud claim about the Judgment filed in 2017 was unsupported and that, other than the now endorsed Return, the document matched the 2015 Judgment entered when he was convicted.

The magistrate judge also rejected Annamalai's arguments that: (1) the top of the document containing the Return had to be labeled "Judgment in a Criminal Case and Commitment Order"; (2) it had to bear the court's seal; and (3) it had to be executed by the USM. The magistrate judge determined that the Judgment

containing the executed Return complied with Rule 32(k) because it set forth the jury's verdict, the adjudication, and the sentence, together with the district court judge's signature. The magistrate judge also concluded that Annamalai's other claims, such as that the 1807 Ex parte Sprout decision controlled, were frivolous.²

Annamalai then filed additional objections to the R&R, reiterating that the Judgment containing the executed Return did not have the court's seal or the clerk's signature.

E. District Court's Order

Subsequently, the district court adopted the magistrate judge's R&R and supplement to the R&R and dismissed Annamalai's § 2241 petition. As to Annamalai's objections to the R&R, the district court stated that:

The Objections are totally without merit. The Magistrate Judge was not required to consider the First Amended Petition which was filed after she issued her [R&R]. The Petitioner's Verified Second Brief is a lot of nonsense. Given the Petitioner's long history of frivolous litigation, the Magistrate Judge was not required to waste her time and my time by responding to every absurd and ridiculous argument made by the Petitioner. She did, however, address them in her Supplement to Final [R&R].

The district court also restricted how the Clerk was to handle papers received from Annamalai: "The Clerk is directed to file any papers received from the Petitioner.

²Ex parte Sprout, 22 F. Cas. 1010 (C.C.D.C. 1807). The magistrate judge also pointed out that the Ex parte Sprout decision did not apply any of the federal statutes or rules of criminal procedure discussed in the judge's R&R.

However, no papers are to be docketed as motions requiring action by the Court unless the Clerk receives my express consent.”³

Annamalai timely appealed the dismissal of his § 2241 petition.⁴

III. DISCUSSION

A. Return Committing Annamalai to BOP Custody

On appeal, Annamalai argues that the district court erred when it dismissed his § 2241 petition because the prisons where he was transferred to, namely, USP-Atlanta and USP-Marion, failed to endorse and send an executed Return to the district court, in violation of federal law and BOP regulations. Therefore, he contends that he is being illegally confined in violation of his due process rights.

Generally, a federal prisoner must file a § 2255 motion to vacate, instead of a § 2241 petition, to collaterally attack the legality of his sentence. McCarthan v. Dir. of Goodwill Indus.-Suncoast, Inc., 851 F.3d 1076, 1081 (11th Cir. 2017) (en banc). However, “a motion to vacate could be ‘inadequate or ineffective to test’ a

³As background from Annamalai’s criminal case, Annamalai filed pro se motions on an almost daily basis after trial. To curtail his abusive litigation, the district court ordered that Annamalai show cause why it should not enter an injunction restricting his ability to file certain pro se motions. Annamalai then filed 20 additional motions. The district court stated that Annamalai’s filings burdened its ability to manage its docket and directed the clerk to forward his motions to chambers for review. If a motion violated the injunction, the district court would summarily deny the motion without prejudice. If a motion did not violate the injunction or was meritorious, the district court would allow the motion to be docketed.

⁴Annamalai has moved to substitute the Respondent in this matter because he transferred prisons while this case was pending. We grant his motion and substitute Warden, USP-Marion in Illinois, as the Respondent/Appellee in this matter for Warden, USP-Atlanta in Georgia.

prisoner's claim about the execution of his sentence because that claim is not cognizable under section 2255(a).” Id. at 1088 (emphasis in original); 28 U.S.C. § 2255(e). For that reason, § 2241 provides a very limited basis for habeas actions for federal prisoners in that it allows prisoners to attack the execution of a sentence rather than the sentence or conviction itself.⁵ See Antonelli v. Warden, U.S.P. Atlanta, 542 F.3d 1348, 1351-52 (11th Cir. 2008); Bishop v. Reno, 210 F.3d 1295, 1304 n.14 (11th Cir. 2000) (considering the BOP's administration of service credits under § 2241, per 18 U.S.C. § 3624).

Here, Annamalai says he is not challenging the district court's imposition of his total sentence or his convictions. Rather, Annamalai argues that the BOP has not followed relevant federal statutes and its own procedures regarding the imprisonment of convicted persons, requiring that his prison endorse and send an executed Return to the district court that reflects that he is committed lawfully to his prison's custody. Annamalai argues that a Return must be endorsed and sent to the district court each time he is transferred to a different BOP facility. While Annamalai contends he is challenging only the execution of his sentence, the fact remains that Annamalai is requesting release from prison custody which

⁵The question of whether a federal prisoner's claim is properly brought in a § 2241 petition is a legal issue that we review de novo. McCarthan, 851 F.3d at 1081.

necessarily would mean his imprisonment sentence would then have no legal effect. Ultimately, we need not decide this thorny issue.

Even assuming each prison to which Annamalai was committed should have sent an endorsed Return to the district court, Annamalai would still not be entitled to § 2241 relief for several reasons. First and foremost, the district court's Judgment and sentence provide the authority for holding Annamalai in custody, rather than a Return from his prison warden. See Aderhold v. McCarthy, 65 F.2d 452, 452 (5th Cir. 1933) ("While a commitment ought regularly to go with [a prisoner], its absence does not render the imprisonment unlawful, for the sentence is the real authority for holding him."); Hode v. Sanford, 101 F.2d 290, 291 (5th Cir. 1939) (noting that a commitment depends on the validity of the judgment behind it); see 18 U.S.C. § 3621(a) ("A person who has been sentenced to a term of imprisonment . . . shall be committed to the custody of the [BOP] until the expiration of the term imposed."); 18 U.S.C. § 3624(a) ("A prisoner shall be released by the [BOP] on the date of the expiration of the prisoner's term of imprisonment."). Annamalai does not contend that the Judgment does not accurately reflect his total sentence of 327 months. Annamalai also has provided no explanation for how the alleged failure to execute the Return has affected his sentence or his rights.

Second, the district court's Judgment contained the jury's verdict, the court's adjudication of guilt, Annamalai's sentence, and the judge's signature. Thus, the Judgment complied with the requirements under Rule 32(k) to be a valid judgment. See Fed. R. Crim. P. 32(k).

Third, the statute and BOP regulations about endorsement of Returns that Annamalai relies on do not entitle him to be released from custody even if they are not followed. See 18 U.S.C. § 3621(c); P5800.18 § 202.⁶ Fourth, there is no support for Annamalai's claim that the Judgment containing the executed Return as to FCI-Williamsburg is a fraudulent document except for his own conclusory allegations. Indeed, Annamalai does not deny that he went to FCI-Williamsburg.

B. Requests for Admission

Annamalai has filed requests for admission ("RFAs") in several cases, including the instant § 2241 proceeding, his criminal case, another § 2241 proceeding filed in the Southern District of Indiana, and an Indiana state case. Specifically, Annamalai sent RFAs to government officials in the United States Attorney's Office in the Northern District of Georgia, the BOP, former Attorney General Jeff Sessions, and the wardens of USP-Atlanta, USP-Marion, and

⁶Although Annamalai also relies on P5800.12 § 203, the BOP's Receiving and Discharge Manual states that P5800.12 has been rescinded. See P5800.18 § 1(a). Also, Annamalai cited 28 U.S.C. § 1691 in his § 2241 petition, but he does not rely on that statute on appeal.

USP-Terre Haute, Indiana.⁷ In relevant part, he argues that, by failing to respond to his RFAs, government officials have admitted that he is being held in illegal custody in violation of § 3621(c) and BOP regulations. Annamalai argues that the district court erred when it disregarded and failed to take judicial notice of those “deemed” admissions.

Unlike ordinary civil litigants, habeas petitioners are not entitled to discovery as a matter of course. Bracy v. Gramley, 520 U.S. 899, 904, 117 S. Ct. 1793, 1796-97 (1997). Proceedings in § 2241 petitions are governed by the Rules Governing Section 2254 Cases in the United States District Courts (“Habeas Rules,” cited as “Habeas R.”). Habeas R. 1(b). Under the Rules, a petitioner may only conduct discovery by leave of the district court. Habeas R. 6(a). To request discovery, the petitioner must provide reasons for the request and include any proposed discovery devices, including RFAs. Habeas R. 6(b).

Here, Annamalai was not entitled to take discovery through RFAs because he did not first seek leave of court. See Bracy, 520 U.S. at 904, 117 S. Ct. at 1796-97; Habeas R. 6(a). He was required to submit his proposed RFAs to, and obtain approval from, the court before serving them on the government officials,

⁷In a pro se motion for new trial filed in his criminal case, Annamalai attached records of RFAs that he filed. In his Indiana state case, Annamalai requested admissions from officials under the Indiana Rules of Trial Procedure. He also attached RFAs that he filed in his criminal case, requesting admissions under Federal Rules of Civil Procedure 26(a)(1)(B)(iii), (iv), and 36.

which he did not do. Habeas R. 6(b). His unanswered RFAs filed in the instant case thus have no legal effect.

Also, the district court did not err in not considering the RFAs purportedly filed in his other criminal or state court proceedings. Pretermitted whether he could file RFAs in those other proceedings, any admissions resulting from those requests in other criminal or state proceedings were not admissible in this instant § 2241 proceeding. See Fed. R. Civ. P. 36(b) (stating that an admission under Rule 36 “is not an admission for any other purpose and cannot be used against the party in any other proceeding”); Ind. R. Trial P. 36(B) (“Any admission made by a party under this rule is for the purpose of the pending action only and is not an admission by him for any other purpose nor may it be used against him in any other proceeding”).⁸

C. District Court’s Review of R&R

Annamalai also argues that the district court violated his due process rights by not conducting a de novo review of the magistrate judge’s R&R.⁹

⁸Although Annamalai argues on appeal that he did not request judicial notice under Federal Rule of Civil Procedure 36, Rule 36 limits the admissions themselves and does not allow admissions from other proceedings, and he cannot avoid that limitation by requesting judicial notice. See Fed. R. Civ. P. 36(b) (limitation applies to “[a]n admission under this rule”).

⁹We review de novo whether a district court conducted a proper review of the record before adopting a magistrate judge’s R&R. See Lynn v. United States, 365 F.3d 1225, 1232 (11th Cir. 2004) (explaining that “we review legal issues de novo”).

A district court judge must review de novo the parts of the R&R to which a party objects. 28 U.S.C. § 636(b)(1)(C). Here, in its order, the district court indicated that it had reviewed Annamalai's objections and determined they were meritless. The district court was not required to specifically address each of Annamalai's objections or restate each of the magistrate judge's findings and conclusions because it adopted the R&R. Diaz v. United States, 930 F.2d 832, 835-36 (11th Cir. 1991). Contrary to Annamalai's contentions, there is no indication of prejudice or bias by the district court against him in this case. Accordingly, the district court did not err in its review of the magistrate judge's R&R.¹⁰

D. § 2241 Restrictions

Lastly, Annamalai argues that the district court violated his due process rights by failing to notify him before ordering the clerk not to docket his filings as motions without the court's approval.¹¹

¹⁰Also, the district court did not err in stating that the magistrate judge was not required to consider his "verified" second brief. Annamalai was required to put all of his facts and grounds for relief in his § 2241 petition, and the magistrate judge was not required to consider additional briefs. See McNabb v. Comm'r Ala. Dep't of Corrs., 727 F.3d 1334, 1339-40 (11th Cir. 2013) (noting that the Habeas Rules do not authorize petitioners to file briefs in support of their petitions and require petitions to specify all grounds for relief, all supporting facts, and the requested relief). In any event, the magistrate judge addressed Annamalai's "verified" second brief and amended § 2241 petition in the R&R supplement, which the district court noted in its order.

¹¹We review the imposition of a filing injunction for an abuse of discretion. Miller v. Donald, 541 F.3d 1091, 1095-96 (11th Cir. 2008).

Courts have the inherent power and the constitutional obligation to protect their jurisdiction from abusive litigation. Procup v. Strickland, 792 F.2d 1069, 1073-74 (11th Cir. 1986). Provided that the restrictions do not completely foreclose access to the courts, district courts have considerable discretion to impose even severe restrictions on what such individuals may file and how they must behave. Id. at 1074. District courts also have authority to control and manage their dockets. Smith v. Psychiatric Sols., Inc., 750 F.3d 1253, 1262 (11th Cir. 2014).

Here, the district court did not abuse its discretion in imposing the restrictions as part of its authority to manage its docket. See Smith, 750 F.3d at 1262. As noted above, Annamalai has a history of frequent and abusive litigation. See Procup, 792 F.2d at 1073-74. Moreover, the district court did not completely foreclose Annamalai's access to the courts, as the order did not prohibit him from filing documents with the court. See id. at 1074. Rather, the district court's order directed the clerk to accept his filings and instructed how those filings were to be docketed. Also, the order did not prevent Annamalai's filings from being considered by the court. Instead, the district court screened his filings to determine whether any were motions that required action. Accordingly, the district court did not abuse its discretion in imposing the restrictions in Annamalai's § 2241 proceeding.

IV. CONCLUSION

For the foregoing reasons, we affirm the district court's dismissal of Annamalai's § 2241 petition and amended § 2241 petition.

AFFIRMED.

**UNITED STATES COURT OF APPEALS
For the Eleventh Circuit**

No. 18-10548

District Court Docket No.
1:17-cv-04837-TWT

ANNAMALAI ANNAMALAI,

Petitioner - Appellant,

versus

WARDEN,

Respondent - Appellee.

Appeal from the United States District Court for the
Northern District of Georgia

JUDGMENT

It is hereby ordered, adjudged, and decreed that the opinion issued on this date in this appeal is entered as the judgment of this Court.

Entered: January 17, 2019
For the Court: DAVID J. SMITH, Clerk of Court
By: Djuanna Clark

IN THE UNITED STATES COURT OF APPEALS
FOR THE ELEVENTH CIRCUIT

No. 18-10548-CC

ANNAMALAI ANNAMALAI,

Petitioner - Appellant,

versus

WARDEN,

Respondent - Appellee.

Appeal from the United States District Court
for the Northern District of Georgia

Before: WILLIAM PRYOR, BRANCH and HULL, Circuit Judges.

BY THE COURT:

Appellant's motion to supplement the record and or modify the record on
appeal is *denied*.

Appellant's motion to request to supplement the appeal records with certain
judicial records is *denied*.

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

ANNAMALAI ANNAMALAI,
Petitioner,

v.

DARRIN HARMAN
WARDEN,
Respondent.

HABEAS CORPUS
28 U.S.C. § 2241

CIVIL ACTION FILE NO.
1:17-CV-4837-TWT

J U D G M E N T

This action having come before the court, Honorable THOMAS W. THRASH, JR., Chief United States District Judge, for consideration of the Final Report and Recommendation of the Magistrate, and the Court having ADOPTED said recommendation, it is hereby

Ordered and Adjudged that this action be DISMISSED because Petitioner is not entitled to a federal writ of habeas corpus.

Dated at Atlanta, Georgia, this 23rd day of January, 2018.

JAMES N. HATTEN
CLERK OF COURT

By: s/Jennifer Lee
Jennifer Lee, Deputy Clerk

Prepared, Filed, and Entered
in the Clerk's Office
January 23, 2018
James N. Hatten
Clerk of Court
By: s/Jennifer Lee
Deputy Clerk

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

ANNAMALAI ANNAMALAI,

Petitioner,

v.

DARRIN HARMAN
WARDEN,

Respondent.

CIVIL ACTION FILE
NO. 1:17-CV-4837-TWT

ORDER

This is a pro se habeas corpus action. It is before the Court on the Petitioner's Motion for Extension of Time to File Objections [Doc. 19]. The Petitioner has filed his Objections to the Report and Recommendation. Therefore, the Petitioner's Motion for Extension of Time to File Objections [Doc. 19] is DENIED as moot. The Objections are totally without merit. The Magistrate Judge was not required to consider the First Amended Petition which was filed after she issued her Report and Recommendation. The Petitioner's Verified Second Brief is a lot of nonsense. Given the Petitioner's long history of frivolous litigation, the Magistrate Judge was not required to waste her time and my time by responding to every absurd and ridiculous argument made by the Petitioner. She did, however, address them in her Supplement

to Final Report and Recommendation [Doc. 17]. The Court approves and adopts the Report and Recommendation as the judgment of the Court. This action is DISMISSED. The Petitioner's Motion to Not Transfer [Doc. 24] is DENIED. The Petitioner's Motion to Not Transfer [Doc. 26] is DENIED. The Petitioner's Motion for Specific Relief [Doc. 27] is DENIED. The Emergency Motion for Petitioner's Release [Doc. 31] is DENIED. The Motion to Proceed in Forma Pauperis [Doc. 35] is DENIED. The appeal is frivolous. The Clerk is directed to file any papers received from the Petitioner. However, no papers are to be docketed as motions requiring action by the Court unless the Clerk receives my express consent.

SO ORDERED, this 22 day of January, 2018.

/s/Thomas W. Thrash
THOMAS W. THRASH, JR.
United States District Judge

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION**

Petition and Notice of Change of Address” [3]; *see also* [4] & [5], “Emergency Motion/Request to Amend the Habeas Petition” [6], and “Verified Emergency Motion for (Mandatory) Judicial Notice With a Request for an Evidentiary Hearing” [7].

Annamalai alleges in these pleadings that he is “in custody in violation of the Constitution or laws or treaties of the United States” within the meaning of 28 U.S.C. § 2241(c)(3) because the Judgment and Commitment entered in the Criminal Case was not transmitted back to this Court, with the return duly endorsed, by the federal penal facility he was sent to after he was sentenced, as required by 18 U.S.C. § 3621(c) and Bureau of Prisons’ regulations and program statements.

The docket in the Criminal Case contradicts this claim. The Judgment and Commitment, signed by the presiding district judge and committing Annamalai to the Bureau of Prisons’ custody at FCI-Williamsburg, with the return endorsed, is on file in the docket. *See* Criminal Case [619 therein].¹

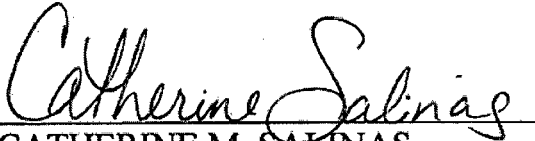
¹ Similarly, the signed Judgment and Commitment, with an endorsed return, for Annamalai’s co-defendant, Kummar Chinnathambi, is also on file on the docket. *See id.* [378 therein].

Because it plainly appears from the petition and the record of prior proceedings that Annamalai is not entitled to relief, I **RECOMMEND** that this case be **SUMMARILY DISMISSED**. *See* 28 U.S.C. foll. § 2254, Rule 4; *see also id.* Rule 1 (authorizing the application of Rule 4 in § 2241 proceedings).

I **DIRECT** the Clerk to **SUBSTITUTE** “Darrin Harman, Warden” in place of “Beverly Harvard” as the named Respondent in this case, to reflect Annamalai’s recent transfer and new custodian. *See* [6]. All other motions are **DENIED**.

And I further **DIRECT** the Clerk to terminate the referral of this case to me.

SO RECOMMENDED AND DIRECTED, this 18th day of December, 2017.


CATHERINE M. SALINAS
UNITED STATES MAGISTRATE JUDGE

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION**

ANNAMALAI ANNAMALAI, : HABEAS CORPUS
BOP ID 56820-379, : 28 U.S.C. § 2241
Petitioner, :
 :
v. : CIVIL ACTION NO.
 : 1:17-CV-4837-TWT-CMS
DARRIN HARMAN, Warden, :
Respondent. :

SUPPLEMENT TO FINAL REPORT AND RECOMMENDATION

I issued my Final Report and Recommendation in this case on December 18, 2017, addressing all of the filings submitted by federal inmate Annamalai Annamalai that had then been docketed in this case. *See* [10] (addressing [1], [2], [3], [4], [5], [6] & [7]). The same day, the Clerk received and added to the docket Annamalai’s “Verified Second Brief in Support of Petitioner Annamalai’s Habeas Petition Pursuant to 28 U.S.C. § 2241.” *See* [9]. And a few days later, Annamalai filed and the Clerk docketed a “First Amended Petition for Habeas Corpus Pursuant to 28 U.S.C. [§] 2241.” *See* [16]. This Supplement to Final Report and Recommendation addresses Annamalai’s “Verified Second Brief” and “First Amended Petition.”

Annamalai contends that he is “illegally incarcerated” because this Court and the federal Bureau of Prisons (BOP) did not comply with 18 U.S.C. § 3621(c), 28 U.S.C. § 1691, Federal Rule of Criminal Procedure 32(k), and various BOP Program Statements when he was committed to custody following his conviction for bank fraud and related crimes in *United States v. Annamalai*, No. 1:13-CR-437-TCB (N.D. Ga. Aug. 25, 2014) (the “*Criminal Case*”). Annamalai’s arguments are meritless.

Annamalai initially argued that his incarceration was illegal because the docket in the *Criminal Case* did not include a copy of this Court’s Order signed by the Honorable Timothy C. Batten, Jr., on July 16, 2015, with the return duly endorsed, committing Annamalai to the BOP’s custody. *See* [1]. As I noted in my original Final Report and Recommendation, this claim is contradicted by the record, which includes the endorsed Order. *See* [10] at *passim* (citing *Criminal Case* [619]).

Annamalai now argues in his Second Verified Brief that the copy of the endorsed Order committing him to the BOP’s custody that is docketed in the *Criminal Case* is a “fraudulent, manipulative, made up document.” [9]. This claim is unsupported by anything other than Annamalai’s

conjecture, and I note that the copy of the endorsed Order matches in all material respects the unendorsed Order earlier entered on the docket when Annamalai was convicted (save, of course, for the endorsement). *Compare Criminal Case [355] with Criminal Case [619]*.

Annamalai also now argues that the endorsed Order in the *Criminal Case* does not conform to the requirements of 18 U.S.C. § 3621(c). *See [9] at passim*. Section 3621(c) states: “When a prisoner, pursuant to a court order, is placed in the custody of a person in charge of a penal or correctional facility, a copy of the order shall be delivered to such person as evidence of this authority to hold the prisoner, and the original order, with the return endorsed thereon, shall be returned to the court that issued it.” I conclude that Document 619 in the *Criminal Case* conforms in all necessary respects with these statutory requirements. Contrary to Annamalai’s contention that the Order must bear a specific caption, *see [9] at 2*, the plain language of § 3621(c) does not require the use of the label “Judgment in a Criminal Case and Commitment Order.” Similarly, Annamalai’s contention that the Order was required to be “sealed” pursuant to a different federal statute is also without merit because a judgment and

commitment order in a criminal case is neither a “writ” nor “process” within the meaning of 28 U.S.C. § 1691. *Contrast, e.g.,* Fed. R. Civ. P. 4(a)(1)(G) (requiring that a summons in a civil case “bear the court’s seal”). And Annamalai’s contention that the return is invalid because the Warden of the prison to which he was delivered signed it, rather than a Marshal, finds no support in the text of § 3621(c), which does not specify that it must be a Marshal who executes the return.

Similarly, Annamalai’s contention that the Order did not comply with the requirements of Federal Rule of Criminal Procedure 32(k) is also self-evidently wrong, because the Order sets forth the jury’s verdict, the adjudication, and the sentence, together with the judge’s signature, which is all that Rule 32(k) requires. And Annamalai should recognize that BOP Program Statements do not supersede or expand the requirements of federal statutes or federal procedural rules with respect to the content that federal judges are required to include in criminal judgments.

Here, the Order committing Annamalai to the BOP’s custody after he was convicted in the Criminal Case complied with all relevant statutory and

procedural requirements, both in the form it issued and in the form it was returned, duly endorsed. *See Criminal Case* [355] & [619].

I note that arguments similar to Annamalai's have been raised by other federal inmates in litigation around the country and that the circuit courts of appeal have consistently rejected such claims. *See, e.g., Satcher v. Hogstein*, 576 F. App'x 221 (4th Cir. 2014) (summarily affirming on appeal the district court's denial of a § 2241 petition alleging that the order committing a prisoner to the BOP's custody was not properly endorsed and returned); *Hall v. Loretto*, 556 F. App'x 72, 73 (3d Cir. 2014) (affirming the denial of a § 2241 petition because "[the prisoner] has not cited, nor have we located, any authority for the proposition that, where the United States Marshal (or his or her deputy) does not complete the 'return' section of a defendant's judgment and commitment order, the defendant's confinement is unlawful and he must be released."). *See also Hall v. Warden Loretto FCI*, 609 F. App'x 51, *passim* (3d Cir. 2015) (affirming the dismissal of Federal Tort Claims Act and civil rights claims premised on an alleged failure by the United States Marshal to complete the 'return' section of the

defendant's judgment and commitment order and on a case manager's alleged related "improper[]" action).¹

All other arguments raised by Annamalai—including (A) his contention that the United States Attorney General and other federal employees have "admitted the illegal custody of the petitioner and consented to release the petitioner from the illegal custody," [16] at 3, and (B) his contention that this case is controlled by *Ex Parte Sprout*, 1 Cranch C.C. 424 (C.C.D.C. 1807), a case which applies none of the federal statutes or rules of criminal procedure discussed above and has been cited by no other circuit court since 1825—are frivolous.

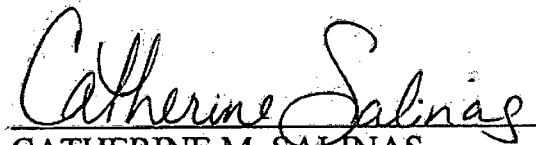
For the reasons stated above and in my Final Report and Recommendation, I continue to **RECOMMEND** that this case be **SUMMARILY DISMISSED** because it plainly appears from the petition and the record of prior proceedings that Annamalai is not entitled to a

¹ I also note that another circuit court has concluded that a federal prisoner's argument that "the judgment and commitment order [in his case was] invalid because it was not signed by the clerk of the court or affixed with the court's seal" and that "he is thus not required to serve that sentence at all, or at least not unless the errors in the judgment and commitment order are corrected" was subject to summary dismissal because such claims cannot be brought at all under 28 U.S.C. § 2241. *Lewis v. United States Parole Comm'n*, 132 F. App'x 659, 660 (7th Cir. 2005).

federal writ of habeas corpus. *See* [10] at 3 (citing 28 U.S.C. foll. § 2254, Rules 1 & 4).

I **DIRECT** the Clerk to terminate the referral of this case to me.

SO RECOMMENDED AND DIRECTED, this 27th day of December, 2017.


CATHERINE M. SALINAS
UNITED STATES MAGISTRATE JUDGE

**Additional material
from this filing is
available in the
Clerk's Office.**