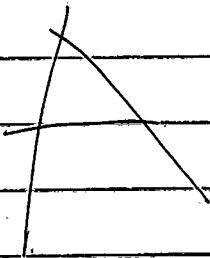


APPENDIX



S.D.N.Y.-N.Y.C.
19-cv-3346
Crotty, J.

United States Court of Appeals
FOR THE
SECOND CIRCUIT

At a stated term of the United States Court of Appeals for the Second Circuit, held at the Thurgood Marshall United States Courthouse, 40 Foley Square, in the City of New York, on the 30th day of January, two thousand twenty.

Present:

José A. Cabranes,
Robert D. Sack,
Raymond J. Lohier, Jr.,
Circuit Judges.

Joshua Adam Schulte,

Plaintiff-Appellant,

v.

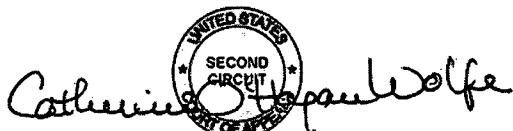
19-2940 (L),
19-3097 (Con)

United States Attorney General, et al.,

Defendants-Appellees.

Appellant, pro se, moves to proceed in forma pauperis, to expedite his appeal, for an injunction compelling prison officials to end delays in his mail that result from screening, and to file a brief late. Appellees move to file late oppositions. This Court has determined sua sponte that it lacks jurisdiction over this appeal because a final order has not been issued by the district court as contemplated by 28 U.S.C. § 1291. *See Petrello v. White*, 533 F.3d 110, 113 (2d Cir. 2008); *see also Leftridge v. Conn. State Trooper Officer No. 1283*, 640 F.3d 62, 66–67 (2d Cir. 2011) (holding an order administratively closing a case is final if it “ends the case”). Upon due consideration, it is hereby ORDERED that the appeal is DISMISSED. It is further ORDERED that the motions are DENIED as moot.

FOR THE COURT:
Catherine O'Hagan Wolfe, Clerk of Court


Catherine O'Hagan Wolfe



APPENDIX

B

UNITED STATES COURT OF APPEALS
FOR THE
SECOND CIRCUIT

At a Stated Term of the United States Court of Appeals for the Second Circuit, held at the Thurgood Marshall United States Courthouse, 40 Foley Square, in the City of New York, on the 1st day of April, two thousand twenty,

Present:

José A. Cabranes,
Robert D. Sack,
Raymond J. Lohier, Jr.,
Circuit Judges.

Joshua Adam Schulte,

Plaintiff - Appellant,

ORDER

Docket Nos.
19-2940 (L),
19-3097 (Con)

v.

United States Attorney General, United States
Department of Justice, Federal Bureau of Investigation,
United States Attorney for the Southern District of New
York, United States Supreme Court, Federal Bureau of
Prisons, Southern District of New York,

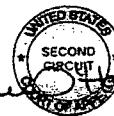
Defendants - Appellees.

Appellant filed a motion for reconsideration and the panel that determined the motion has considered the request.

IT IS HEREBY ORDERED, that the motion is denied.

For The Court:
Catherine O'Hagan Wolfe,
Clerk of Court

Catherine O'Hagan Wolfe



2a

~~APPENDIX~~

C

USDC SDNY
DOCUMENT
ELECTRONICALLY FILED
DOC #: 81419
DATE FILED: 8/14/19

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK-----X
JOSHUA ADAM SCHULTE,Plaintiff,
-against-ATTORNEY GENERAL OF THE UNITED
STATES, *et al.*,Defendants.
-----X

19 Civ. 3346 (PAC)

ORDER

HONORABLE PAUL A. CROTTY, United States District Judge:

On April 12, 2019, *Pro Se* Plaintiff Joshua Schulte filed a Complaint for Violation of Civil Rights against Defendants Attorney General of the United States, U.S. Department of Justice, Federal Bureau of Investigation (“FBI”), U.S. Attorney for the Southern District of NY, Supreme Court of the United States, U.S. Bureau of Prisons, and Southern District of New York. Dkt. 2. Plaintiff, who was remanded to the Metropolitan Correctional Center (“MCC”) pending the outcome of a federal criminal proceeding against him (S2 17 Cr. 548 (PAC)), argues that his detention and Special Administrative Measures (“SAMs”) violate his rights under the First, Fifth, Sixth, and Eighth Amendments. *Id.* Plaintiff seeks an immediate injunction ordering his release from the MCC, as well as declaratory relief and monetary damages. *Id.*

In addition, Plaintiff filed a joint Petition for Writ of Habeas Corpus pursuant to 28 U.S.C. § 2241 and Petition for Judgment in Defamation, Slander, Libel, and Other Prosecutorial Misconduct, Dkt. 2-1, which were dated May 24, 2019, *id.* at 46. These petitions assert claims of prosecutorial misconduct, speedy trial, perjury, defamation, slander, and libel against Defendants, and seek a writ of habeas corpus based on these and other claims relating to his detention and SAMs. *Id.*

Subsequently, Plaintiff filed a joint Petition to End Torture and Inhumane Conditions (as an Addendum to the Petition for Writ of Habeas Corpus) and a Petition for Judgment in Torture and Human Rights Atrocities Committed by the United States of America, dated May 30, 2019. Dkt. 7. These petitions “seek[] an end to torture and inhumane conditions wrought by defendants” and “damages as part of civil rights litigation . . . based on clear evidence of torture.” *Id.* at 1.

Finally, Plaintiff filed a Petition for Summary Judgment, dated June 7, 2019. Dkt. 6.

Plaintiff’s claims are related to rulings that have been or will be decided in his pending criminal trial. Specifically, the Court has ruled on Plaintiff’s motion to vacate SAMs, which brought many of the same challenges Plaintiff raises in his civil motions to the conditions of his confinement. 17-cr-548, Dkt. 127 (partially modifying SAMs). The Court has not yet ruled on Plaintiff’s motions to suppress documents obtained from searches of Plaintiff’s home and cell at MCC, which involve many of the same allegations Plaintiff raises in his civil motions regarding allegedly false statements made by the FBI and U.S. Attorney’s Office to obtain search warrants. Dkts. 97, 108. It is within the Court’s power to stay the civil action until the criminal case has been resolved, and it is appropriate to do so given the overlap in claims between the two actions.¹ See *Wallace v. Kato*, 549 U.S. 384, 393–94 (2007) (“If a plaintiff files a false-arrest claim before he has been convicted (or files any other claim related to rulings that will likely be made in a pending or anticipated criminal trial), it is within the power of the district court, and in accord with common practice, to stay the civil action until the criminal case or the likelihood of a criminal case is ended.”); *Brown v. Freeport Police Dep’t*, No. 12-CV-4047 SJF GRB, 2013 WL

¹ Moreover, to the extent any elements of Plaintiff’s 28 U.S.C. § 2241 petition—such as complaints regarding the conditions of confinement at MCC—are not duplicative of the motions pending in the criminal proceeding, the petition would be premature under the Prison Litigation Reform Act if Plaintiff has not exhausted his administrative remedies. See 42 U.S.C. § 1997e(a).

5629637, at *3 (E.D.N.Y. Oct. 9, 2013) ("Where, as here, a plaintiff files a civil rights action seeking damages, *inter alia*, for false arrest, false imprisonment or malicious prosecution before the termination of the criminal proceedings against him, it is within the power of the district court, and in accord with common practice, to stay the civil action until the criminal case or the likelihood of a criminal case is ended.").

CONCLUSION

This case shall be administratively closed, with leave to reopen following resolution of the underlying criminal proceedings against Plaintiff. The Clerk of Court is directed to mail a copy of this order and the docket sheet to Plaintiff.

Dated: New York, New York
August 14 2019

SO ORDERED



PAUL A. CROTTY
United States District Judge

Copy mailed to:
Joshua Adam Schulte
Reg. No. 79471-054
MCC New York
150 Park Row
New York, NY 10007