

UNPUBLISHED

**UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT**

No. 19-7772

GREGORY SIMMONS-BEY, a/k/a Alton Gregory Simmons-Bey,

Petitioner - Appellant,

v.

USA REPUBLIC CORPORATION ET,

Respondent - Appellee.

Appeal from the United States District Court for the Eastern District of North Carolina, at Raleigh. Louise W. Flanagan, District Judge. (5:19-hc-02095-FL)

Submitted: April 14, 2020

Decided: April 17, 2020

Before WILKINSON, QUATTLEBAUM, and RUSHING, Circuit Judges.

Dismissed by unpublished per curiam opinion.

Gregory Simmons-Bey, Appellant Pro Se.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Gregory Simmons-Bey, a state pretrial detainee, seeks to appeal the district court's order denying relief on his 28 U.S.C. § 2241 (2018) petition. The order is not appealable unless a circuit justice or judge issues a certificate of appealability. 28 U.S.C. § 2253(c)(1)(A) (2018). A certificate of appealability will not issue absent "a substantial showing of the denial of a constitutional right." 28 U.S.C. § 2253(c)(2) (2018). When the district court denies relief on the merits, a prisoner satisfies this standard by demonstrating that reasonable jurists would find the district court's assessment of the constitutional claims debatable or wrong. *See Buck v. Davis*, 137 S. Ct. 759, 773-74 (2017). When the district court denies relief on procedural grounds, the prisoner must demonstrate both that the dispositive procedural ruling is debatable and that the petition states a debatable claim of the denial of a constitutional right. *Gonzalez v. Thaler*, 565 U.S. 134, 140-41 (2012) (citing *Slack v. McDaniel*, 529 U.S. 473, 484 (2000)).

We have independently reviewed the record and conclude that Simmons-Bey has not made the requisite showing. Accordingly, we deny a certificate of appealability and dismiss the appeal. We dispense with oral argument because the facts and legal contentions are adequately presented in the materials before this court and argument would not aid the decisional process.

DISMISSED

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA
WESTERN DIVISION

NO. 5:19-HC-2095-FL

GREGORY SIMMONS-BEY, also known)
as Alton Gregory Simmons-Bey,)
Petitioner,)
v.) ORDER
USA REPUBLIC CORPORATION ET,)
Respondent.)

Petitioner, a state pretrial detainee proceeding pro se, filed the instant petition for a writ of habeas corpus pursuant to 28 U.S.C. § 2241. The matter is before the court for an initial review of the petition pursuant to 28 U.S.C. § 2243, which provides that the court need not seek a response from the respondent when it is clear on the face of the petition that the petitioner is not entitled to relief.

Petitioner is a state pretrial detainee awaiting trial on charges of trafficking opiates and sale and delivery of cocaine. Petitioner primarily alleges certain law enforcement officers and state prosecutors failed to “respect” his status as a sovereign citizen when they arrested and charged him with the foregoing offenses, and that the arresting officers and prosecutors have engaged in a vindictive and malicious prosecution. Petitioner also alleges that his custodian has failed to provide adequate medical care, and that he sustained injuries in a motor vehicle accident caused by the negligence of the arresting officers.

To the extent petitioner is challenging the conditions of confinement or attempting to assert a claim for personal injuries caused by the motor vehicle accident, such claims are not cognizable

in this habeas corpus proceeding. See Wilborn v. Mansukhani, __ F. App'x __, 2019 WL 5856427, at *5 (4th Cir. Nov. 8, 2019); Rodriguez v. Ratledge, 715 F. App'x 261, 265-66 (4th Cir. 2017); Braddy v. Wilson, 580 F. App'x 172, 173 (4th Cir. 2014). Similarly, to the extent petitioner is seeking damages for malicious prosecution, the claim must be brought as a civil rights action. See Wallace v. Kato, 549 U.S. 384, 389-90 (2007) (discussing tort of malicious prosecution); Evans v. Chalmers, 703 F.3d 636, 647 (4th Cir. 2012) (addressing malicious prosecution claim brought pursuant to 42 U.S.C. § 1983). The court dismisses these claims without prejudice.

To the extent petitioner seeks federal court intervention in his pending criminal prosecution, petitioner has failed to show that extraordinary circumstances warrant such relief. See Kugler v. Helfant, 421 U.S. 117, 124 (1975) (discussing limited circumstances in which federal court may intervene in pending state criminal prosecution); Younger v. Harris, 401 U.S. 37, 54 (1971). Petitioner must pursue his claims challenging his ongoing state criminal proceedings in his pending criminal case, including by exhausting his state appeals, before seeking federal habeas corpus relief. See 28 U.S.C. § 2254(b)(1); Nivens v. Gilchrist, 444 F.3d 237, 241 (4th Cir. 2006).

Finally, petitioner alleges that state authorities do not have jurisdiction to prosecute him because he is a sovereign citizen and Moorish American national. Petitioner cannot avoid his state criminal prosecution by declaring that he is sovereign citizen. The state court's jurisdiction over him is not dependent on petitioner's national origin or descent. See United States v. Burris, 231 F. App'x 281, 281 (4th Cir. 2007); United States v. Benabe, 654 F.3d 753, 767 (7th Cir. 2011) ("Regardless of an individual's claimed status of descent, be it a 'sovereign citizen,' a 'secured-

party creditor,' or a 'flesh-and-blood human being,' that person is not beyond the jurisdiction of the courts. These theories should be rejected summarily, however they are presented.").

Based on the foregoing, the court DISMISSES the petition, and DENIES a certificate of appealability. The court dismisses petitioner's civil claims seeking damages without prejudice to bring them in a civil rights action. The clerk is DIRECTED to close this case.

SO ORDERED, this the 14th day of November, 2019.



LOUISE W. FLANAGAN
United States District Judge

FILED: January 10, 2020

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Petitioner - Appellant

v.

USA REPUBLIC CORPORATION ET

Respondent - Appellee

O R D E R

The court grants leave to proceed in forma pauperis.

For the Court--By Direction

/s/ Patricia S. Connor, Clerk

FILED: June 2, 2020

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O R D E R

The court denies the petition for rehearing.

Entered at the direction of the panel: Judge Wilkinson, Judge Quattlebaum, and Judge Rushing.

For the Court

/s/ Patricia S. Connor, Clerk

Blacks ~~Life~~ Matter
Lives

FILED: June 19, 2020

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

Approved
Final Payment

No. 19-7772
(5:19-hc-02095-FL)

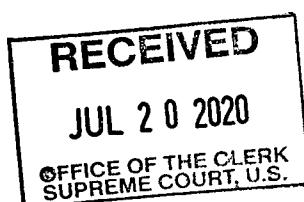
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ORDER

Appellant seeks reconsideration of this court's denial of his petition for rehearing.

The court denies appellant's motion for reconsideration.

For the Court--By Direction

"Nonitation"

/s/ Patricia S. Connor, Clerk

"Redeems", "Discharged"

This is my (money order) Paid To Me, and I Order The Court To be Release at Once, on Condition of Proof of Claim, This is a (Redraft) I have Regain ownership of my (Strawman) The government (loses) it Commercial (Hold) on Me and I gain (Standing ⁱⁿ Law) The Courts No longer Control Me. Sovereign have All benefit, I No longer Citizens of The Corporation Now (Redeemed) Courts Can't have Jurisdiction over A (Sovereign), I am (Masters) of all of They Now (Own). Sovereign is a Common Law Court and Such Courts No longer Exist.