

INDEX TO EXHIBITS

EXHIBIT 1A Plea hearing minutes, December 3, 2002

EXHIBIT 1B Sentencing hearing minutes, April 17, 2003

EXHIBIT 2A Administrative remedy, March 7, 2018

EXHIBIT 2B Administrative remedy BP-9, March 11, 2018

EXHIBIT 2C Administrative remedy BP-10, April 12, 2018

EXHIBIT 2D Administrative remedy BP-11, May 24, 2018

EXHIBIT 3 Writ of Habeas Corpus and brief in support

EXHIBIT 4 Petitioner's Opposition to the Response in District Court

EXHIBIT 5 District Court Order, November 2, 2020

EXHIBIT 6 Third Circuit Court of Appeals Order, April 8, 2021

EXHIBIT 7 Third Circuit Court of Appeals Order, September 23, 2021

E X H I B I T 5

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

ALBERT RANIERI, :  
Petitioner :  
v. : Case No. 3:18-cv-237-KAP  
VICKY MOSER, WARDEN, :  
F.C.I. LORETO, :  
Respondent :  
:

Memorandum Order

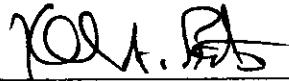
This is a consent case under 28 U.S.C. § 636(c)(1). Petitioner is at F.C.I. Loretto, serving a 360-month sentence imposed by the Honorable David Larimer of the United States District Court for the Western District of New York on April 17, 2003. United States v. Ranieri, Case No. 6:02-cr-6126-1 (W.D.N.Y.). Petitioner's release date, depending on his earning of good conduct time, is sometime in 2027, see ECF no. 12, Response at 5, or 2026, see United States v. Ranieri, 2020 WL 3445343, at \*2 (W.D.N.Y. June 24, 2020), appeal withdrawn, 2020 WL 5989302 (2d Cir. Aug. 21, 2020).

Petitioner, in a habeas petition under 28 U.S.C. § 2241, challenges not the execution of his term of imprisonment, but the execution of the order of restitution. The Judgment and Commitment, ECF no. 12, Exhibit 2a, imposed restitution in the amount of \$7,433,128, of which petitioner has paid less than one tenth of one percent. He contends that the government lacks the power to collect restitution more than 5 years after the date of the judgment. The government's position is that petitioner is obligated to pay restitution for at least 20 years after his release from custody.

The monetary component of a sentence is not capable of satisfying the "in custody" requirement of federal habeas statutes. See United States v. Ross, 801 F.3d 374, 380 (3d Cir. 2015), citing, inter alia, Obado v. New Jersey, 328 F.3d 716, 718 (3d Cir. 2003) (per curiam) ("The payment of restitution or a fine, absent more, is not the sort of 'significant restraint on liberty' contemplated in the 'custody' requirement of the federal habeas corpus statutes.") Petitioner is free to file a civil complaint (and pay the full filing fee therefor) challenging the government's construction of the Mandatory Victim Restitution Act of 1996. He should first read United States v. Richardson, 512 F.2d 105, 106 (3d Cir. 1975) ("The question is one of ascertaining congressional intent. Congress, of course, has the power to extend the period of limitations without running afoul of the ex post facto clause, provided the period has not already run.").

The matter is dismissed for lack of jurisdiction. Cardona v. Bledsoe, 681 F.3d 533, 537-38 (3d Cir.), cert. denied, 568 U.S. 1077 (2012). The Clerk shall mark this matter closed.

DATE: 2 November 2020



Keith A. Pesto,  
United States Magistrate Judge

Notice by ECF to counsel and by U.S. Mail to:

Albert Ranieri, Reg. No. 10701-055  
F.C.I. Loretto  
P.O. Box 1000  
Cresson, PA 16630

E X H I B I T 6

CLD-135

March 25, 2021

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

C.A. No. **20-3319**

ALBERT M. RANIERI, Appellant

v.

WARDEN LORETTA FCI

(M.D. Pa. Civ. No. 3-18-cv-00237)

Present: RESTREPO, MATEY and SCIRICA, Circuit Judges

Submitted are:

- (1) By the Clerk for possible dismissal due to a jurisdictional defect and possible summary action;
- (2) Appellee's response; and
- (3) Appellant's response

in the above-captioned case.

Respectfully,

Clerk

ORDER

This appeal is dismissed for lack of jurisdiction. Generally, this Court's jurisdiction is limited to appeals from "final decisions" of the district courts. 28 U.S.C. § 1291. "Upon the consent of the parties," a Magistrate Judge may enter a final judgment in certain cases, id. § 636(c)(1), and the aggrieved party may appeal directly to the court of appeals, id. § 636(c)(3); see also Siers v. Morash, 700 F.2d 113, 116 n.10 (3d Cir. 1983). A party's

consent to a Magistrate Judge's jurisdiction must be clear, unequivocal, and unambiguous. See 12 Charles Alan Wright, et al., Federal Practice and Procedure § 30712. (3d ed.) (collecting cases); see also Wilhelm v. Rotman, 680 F.3d 1113, 1118-21 (9th Cir. 2012); Stevo v. Frasor, 662 F.3d 880, 883 (7th Cir. 2011). Appellant's self-prepared document titled "Consent to Jurisdiction by US Magistrate Judge" did not clearly and unambiguously consent to the Magistrate Judge's jurisdiction because it is not clear that he understood the consequences of his decision to consent. Accordingly, this appeal is dismissed for lack of jurisdiction.

By the Court,

s/Paul B. Matey  
Circuit Judge

Dated: April 8, 2021.  
JK/cc: Albert M. Ranieri  
Laura S. Irwin, Esq.



A True Copy:

A handwritten signature in black ink that appears to read "Patricia S. Dodszuweit".

Patricia S. Dodszuweit, Clerk  
Certified Order Issued in Lieu of Mandate

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