UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION

United States of America,

v. **Case No. 2:16-cr-59**

Ramone L. Wright, **Judge Michael H. Watson**

Defendant.

OPINION AND ORDER

Defendant has twenty-two motions currently pending before the Court. ECF Nos. 122, 126–136, 138–147. This Opinion and Order addresses all pending motions. For the following reasons, all of Defendant's motions are **DENIED**. In addition, because of Defendant's history of filing repetitive and meritless motions in his criminal case, Defendant is cautioned that additional such filings may result in the Court imposing filing restrictions.

I. BACKGROUND

Defendant pleaded guilty on December 21, 2016, to two counts of violating the Hobbs Act, 18 U.S.C. § 1951, and two counts of brandishing a firearm during the commission of an offense of violence in violation of 18 U.S.C. § 924(c). *See* ECF No. 39. Defendant appealed his sentence to the Sixth Circuit, but his appeal was dismissed as untimely. *See* ECF No. 56. Defendant then moved this Court to vacate his conviction and sentence under 28 U.S.C. § 2255, and to reduce his sentence. ECF Nos. 60, 90, 103. Each motion was denied. ECF

Nos. 88, 95, 114. Defendant then filed two motions before the Sixth Circuit to authorize this Court to consider a second or successive § 2255 motion; those motions were also denied. ECF Nos. 116 & 119. Undeterred, Defendant moved the Sixth Circuit for permission to file a second or successive habeas petition under 28 U.S.C. § 2254, ECF No. 119, which the Sixth Circuit denied on December 16, 2022. ECF No. 148. The Court now addresses Defendant's motions.

II. DEFENDANT'S MOTIONS

Defendant's motions can be grouped into a few categories. First, Defendant filed ten motions to correct alleged clerical errors and to correct alleged errors in the record. ECF Nos. 126–127, 129–132, 134–135, 141–142. Each motion requests slightly different corrections, but the gravamen of these motions expresses his displeasure with the manner in which his sentence was calculated, ECF Nos. 127, 129, 132, 135, 142, the language of his plea agreement, ECF Nos. 126, 130, 131, and other language on his case docket and in the case record, ECF Nos. 134, 141. Second, Defendant filed three motions requesting the Court provide him with documents. ECF Nos. 122, 128, 136. Third, Defendant filed three motions to compel an entry of default against the Government for failing to respond to his motions for corrections of clerical errors. ECF Nos. 138–140. Fourth, Defendant filed one motion for compassionate release, ECF No. 133, which the Government opposes, ECF No. 137. Finally, Defendant filed five motions asking this Court to recuse itself from consideration

of Defendant's motions because Defendant initiated a civil suit against the Undersigned. ECF Nos. 143–147. The Court addresses Defendant's motions for recusal first and then addresses each additional group of motions, in turn.

a. Motions for Recusal

Defendant argues that the Undersigned must recuse himself from considering Defendant's motions because Defendant filed a civil suit against the Undersigned.

A judge has a duty to recuse himself from any proceeding in which his impartiality might reasonably be questioned. 28 U.S.C. § 455(a). A judge also has a duty to recuse where he has a personal bias or prejudice concerning a party. 28 U.S.C. § 455(b)(1). Equally strong, though, is a judge's duty to exercise his jurisdiction and not to recuse when he is not required to do so. *Hopson v. Gray*, Case No. 5:21-cv-704, 2021 WL 4894311, at *5 (N.D. Ohio Oct. 20, 2021) (citing *Laird v. Tatum*, 409 U.S. 824, 837 (1972) (cleaned up)). Moreover, a judge is presumed to be impartial." *PNC Equip. Fin. v. Mariani*, 758 F. App'x 384, 391 (6th Cir. 2018) (cleaned up). "Recusal is mandated only if a reasonable person with knowledge of all the facts would conclude that the judge's impartiality might reasonably be questioned." *Easley v. Univ. of Mich. Bd. of Regents*, 853 F.2d 1351, 1356 (6th Cir. 1988). The burden to justify disqualification is on the moving party, and the burden is substantial. *Hewitt v. McCrary*, 387 F. Supp. 3d 761, 770 (E.D. Mich. 2019).

"Recusal is not required simply because one of the parties has initiated litigation against the presiding judge." *Callihan v. E. Kentucky Prod. Credit Ass'n*, 895 F.2d 1412 (Table) (6th Cir. 1990). "One reason for this policy is that a per se rule of disqualification would allow litigants to judge shop by filing a suit against the presiding judge." *U.S. v. Houston*, Criminal Action No. 3:13-10-DCR, 2013 WL 3975405, at *13 (E.D. Tenn. July 29, 2013) (quoting *In re Taylor*, 417 F.3d 649, 652 (7th Cir. 2005)). Many courts have held that filing a lawsuit against a judge is insufficient to demonstrate partiality. *See Hopson*, 2021 WL 4894311, at *4 (collecting cases). Here, Defendant moves for recusal solely because he filed suit against the Undersigned. This is insufficient to justify recusal, and because this is Defendant's only basis for recusal, he has failed to carry his burden to justify disqualification. Accordingly, Defendant's motions for recusal, ECF Nos. 143–147, are **DENIED**.

b. Motions for Corrections of Clerical Errors or Corrections of the Record

Federal Rule of Criminal Procedure 36 provides that "[a]fter giving any notice it considers appropriate, the court may at any time correct a clerical error in a judgment[.]" Fed. R. Crim. P. 36. As stated in the Court's previous Order on this issue the Judgment in this case accurately reflects the sentence imposed and does not contain a clerical error. ECF No. 120. Any problem Defendant has with the Bureau of Prisons' calculation of his sentence belongs in a habeas corpus petition under 28 U.S.C. § 2241. *Tennille v. Hemingway*, No: 4:21-cv-

10909, 2021 WL 5826997, at *1 (E.D. Mich. Dec. 8, 2021). The Court has also reviewed Defendant's requests to correct the record relating to his plea agreement and other language used on the docket and finds each request to be patently meritless. Accordingly, Defendant's motions for corrections, ECF Nos. 126–127, 129–132, 134–135, 141–142, are **DENIED**.

c. Motions for Documents

Defendant requests copies of a variety of documents from his criminal case docket. ECF Nos. 122, 128, 136. Defendant provides no basis for his need to acquire the documents, nor does Defendant invoke any right to obtain the documents. As Defendant has no pending matters before this Court, there is no reason Defendant needs the documents he requests. *Cf. Bracy v. Gramley*, 520 U.S. 899, 904 (1997) ("A habeas petitioner, unlike the usual civil litigant, is not entitled to discovery as a matter of ordinary course."); *Ward v. Wolfenbarger*, Civil Nos. 03-CV-72701, 72858-DT, 2015 WL 3742456, at *2 (E.D. Mich. June 15, 2015) ("Instead, a habeas petitioner is entitled to discovery only if the district judge, in the exercise of his discretion and for good cause shown, grants leave to conduct discovery."). That a habeas petitioner has no right to discovery as a matter of course must mean that Defendant, whose habeas petitions have already been denied and who has no other pending matters in this case, also has no right to discovery or documents as a matter of course. Additionally, Defendant has not shown, or even argued, that any of the requested documents would likely contain new information justifying the allowance of a second § 2255

motion, nor does the Court see any helpful information for Defendant in these documents. *See United States v. Viola*, Case No.: 1:08 CR 506, 2017 WL 3840415, at *2 (N.D. Ohio Sept. 1, 2017) (denying in inmate's request for documents for similar reasons). Accordingly, Defendant's motions for documents, ECF Nos. 122, 128, 136, are **DENIED**.[1]

d. Motions for Entry of Default Against the United States

Defendant also moves for entry of default against the United States Government pursuant to Local Rule 7.1 because the Government did not respond to his motions to correct clerical errors or the record. ECF Nos. 138–140. Defendant's motions are patently meritless. But, because the Court already denied each motion upon which Defendant moves for entry of default, the Court will not further consider these motions. Accordingly, all Defendant's motions for entry of default, ECF Nos. 138–140, are **DENIED.**

e. Motion for Compassionate Release

Finally, Defendant moves for compassionate release pursuant to 18 U.S.C. § 3582(c)(1)(A). ECF No. 133. The Government opposes Defendant's motion. ECF No. 137.

18 U.S.C. § 3582(c)(1)(A) permits the Court to reduce[2] Defendant's term of imprisonment and impose a period of supervised release (with or without

[1] Defendant may, of course, request copies of documents through the procedures on the Clerk of Court's website.

[2] This section provides for a modification of a sentence by way of reduction of the term of imprisonment. 18 U.S.C. § 3582(c)(1)(A).

conditions) that does not exceed the unserved portion of the original term of imprisonment if the Court finds that "extraordinary and compelling reasons warrant such a reduction" and that "such a reduction is consistent with applicable policy statements issued by the Sentencing Commission." 18 U.S.C. § 3582(c)(1)(A). In the event the Court finds such extraordinary and compelling circumstances warrant a reduction, the Court should consider the 18 U.S.C. § 3553(a) factors, to the extent they are applicable, before determining whether to grant relief. *Id.*

18 U.S.C. § 3582(c)(1) allows a defendant to file a motion for compassionate release "after (1) exhausting the [Bureau of Prison's ("BOP")] administrative process; or (2) thirty days after the warden received the compassionate release request—whichever is earlier." *United States v. Jones*, 980 F.3d 1098, 1105 (6th Cir. 2020). It is a defendant's burden to demonstrate that he has exhausted administrative remedies. *See, e.g., United States v. Lewis*, No. 1:18-CR-123-2, 2020 WL 6827498, at *3 (S.D. Ohio Nov. 21, 2020) ("[Defendant] must prove with evidence that he made a request to the warden, and that it was received by the warden, in order to establish that thirty days lapsed before he moved this Court for relief.").

For the same reasons given in the Court's prior Order on Defendant's motion for compassionate release, ECF No. 114, Defendant has failed to even state, let alone prove, that he pursued his administrative remedies through the BOP before moving for compassionate release. Defendant merely states in a

"syllabus" at the top of his motion that "when prison officials do not respond to a prisoner's initial grievance, administrative remedies are exhausted Miller v. Norris, 247 F.3d 736 (8th Cir 2001)". ECF No. 114.

To the extent Defendant relies on *Miller* to prove that he exhausted his administrative remedies, he has still failed to make any statement, or provide any proof, that he even attempted to exhaust his administrative remedies, let alone that was prevented from doing so by prison officials.

Even setting aside the threshold issue of exhaustion, compassionate release is not warranted here. Compassionate release is warranted if the Court finds extraordinary and compelling reasons warrant such a reduction. 18 U.S.C. § 3582(c)(1)(A). "[D]istrict courts have discretion to define extraordinary and compelling on their own initiative." *United States v. Hunter*, 12 F.4th 555, 562 (6th Cir. 2021). However, the reasons for release must be just that—extraordinary and compelling. *See id.* Extraordinary means, at least, "most unusual," "far from common," and "having little or no precedent." *Id.* (internal quotation marks and citation omitted). Compelling means, at least, "forcing, impelling, driving." *Id.*

Here, Defendant cites two "extraordinary" and "compelling" circumstances: (1) fraud upon the court; (2) the court lacked jurisdiction.

Even assuming either of Defendant's assertions are factually correct, these arguments are insufficient to justify compassionate release under 18 U.S.C. § 3582(c)(1)(A). At bottom, Defendant moved for compassionate release on the

same bases he argued in all of his other motions discussed above—he is unhappy with the outcome of his case and wishes to re-litigate perceived errors. In effect, Defendant is attempting to file additional § 2255 motions attacking errors in his conviction and sentence through the compassionate release vehicle. Defendant may not do so. *See, e.g., United States v. McCall*, --- F.4th ---, No. 21-3400, 2022 WL 17843865, at *7–9 (6th Cir. 2022); *United States v. Galemmo*, Case No. 1:13-cv-141, 2022 WL 1184146, at *2 (S.D. Ohio Apr. 21, 2022); *United States v. Proge*, Case No. 2:12-cr-20052-06, 2021 WL 3857440, at *2 (E.D. Mich. Aug. 30, 2021). Defendant's reasons for release are improperly raised before the Court in a compassionate release motion. Accordingly, Defendant's motion for compassionate release, ECF No. 133, is **DENIED WITH PREJUDICE**.

III. DEFENDANT'S REPETITIVE AND BASELESS MOTIONS

"District courts are obligated to protect themselves from vexatious litigants[.]" *Flint v. Whalin*, Civil Action No. 3:11CV-316-H, 2011 WL 2471550, at *2 (W.D. Ky. Jun. 21, 2011) (citing *In re McDonald*, 489 U.S. 180, n.8 (1989)); *see also Viola v. Yost*, Case No. 2:21-cv-3088, 2022 WL 656569, at *2–3 (S.D. Ohio Mar. 4, 2022). A court may impose sanctions to curb vexatious litigation if the claims are meritless, the litigant knew or should have known that the claims are meritless, and the claims were filed for an improper purpose. *Id.*

Defendant's criminal case is closed. Defendant entered into a plea agreement with the Government and the Court sentenced him accordingly.

Defendant then directly appealed to the Sixth Circuit, and his appeal was dismissed. Defendant then filed for a writ of certiorari to the Supreme Court, which was denied. Defendant has exhausted all post-conviction remedies, and any further post-conviction motion must be filed in the Sixth Circuit, not here. Thus, he has pursued all possible remedies available to him in his criminal case. Yet, Defendant continues to file numerous meritless motions in his criminal case. As noted above, Defendant filed twenty-two such motions in the last several months.

Accordingly, Defendant is **CAUTIONED** that attempts to file further motions in this case that are not either (1) a motion for compassionate release, on different grounds than Defendant asserts here; or (2) a petition under § 2255, but only if the Sixth Circuit first grants Defendant leave to file a second or successive § 2255 petition, may result in the Court placing filing restrictions on Defendant. If Defendant wishes to challenge his conditions of confinement, such challenge must be brought in a civil case, and Defendant must either pay the filing fee or file a motion for leave to proceed in forma pauperis in that case.

The Clerk is **DIRECTED** to terminate ECF Nos. 122, 126–136, 138–147.

IT IS SO ORDERED.

Michael H. Watson

MICHAEL H. WATSON, JUDGE
UNITED STATES DISTRICT COURT

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Defendant.

ORDER

Defendant moves for release of grand jury testimony underlying his criminal indictment. ECF No. 151. Underlying Defendant's motion is his continued belief that he was indicted on only three counts but plead guilty to four counts. *See id.*

The Sixth Circuit just addressed this issue in its Order denying Defendant's motion for leave to file a second or successive habeas petition, pointing out that Defendant's contention is incorrect. *See* ECF No. 148. The Sixth Circuit stated that Defendant's "argument appears to be premised on a typographical error on the district court's docket at Record 12—'INDICTMENT as to Ramone L. Wright Counts 1, 2, 3.' The error was corrected by a notation on December 21, 2016—'Counts added: Ramone L Wright (1) count(s) 4.'" A review of the indictment further shows that the grand jury returned an indictment on four counts. ECF No. 12. Accordingly, Defendant's motion is **DENIED**. Furthermore, the Court recently denied all Defendant's other motions related to this matter. ECF No.

150. In that Order, the Court cautioned Defendant that further filings in this case that did not comply with the Court's restrictions may result in the Court placing filing restrictions on Defendant. *See id.* The Court recommends that Defendant carefully review that Order before considering any further motions.

IT IS SO ORDERED.

/Michael H. Watson

MICHAEL H. WATSON, JUDGE
UNITED STATES DISTRICT COURT

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