

MAY 14 2015

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IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF VIRGINIA
ROANOKE DIVISION

NIGEL GILLINGS,
Petitioner,

v.

CHRISTOPHER ZYCH,
Respondent.

) Civil Action No. 7:15-cv-00198
)
)
)

) MEMORANDUM OPINION
)

) By: Hon. Jackson L. Kiser
) Senior United States District Judge

Nigel Gillings, a federal prisoner pro se, filed a petition for a writ of habeas corpus pursuant to 28 U.S.C. § 2241. Petitioner filed the petition to pursue a “[r]eduction of sentence pursuant to . . . 18 U.S.C. [§] 3582(c)(1)(A) and or restoration of all lost gain time [sic] due to settlement and admission of the BOP of an Eighth Amendment violation.” As relief, Petitioner explains, “After settlement regarding an Eighth Amendment violation that occurred at USP Atwater on May 21, 2011, in monetary value, I’m requesting the other relief sought[:] reduction sentence and firing of BOP staff.” Attachments to the petition reveal that Petitioner and the BOP settled a Federal Tort Claim Act action for money, and when Petitioner tried to get out of the settlement in order to pursue non-monetary relief, a United States District Court enforced the settlement. Thereafter, Petitioner filed the instant petition.

Pursuant to Rule 1(b) and 4 of the Rules Governing Section 2254 Petitions, I dismiss the petition without prejudice because it is apparent that Petitioner is not entitled to the relief he seeks via § 2241. Petitioner fails to show that he is in custody in violation of the Constitution or laws or treaties of the United States, and he may seek a reduction in sentence via 18 U.S.C. § 3582 from the United States District Court that entered his sentence. Further, § 2241 is not the

proper vehicle to “force” the BOP to fire staff or modify the terms of settlement. Accordingly, the petition is dismissed without prejudice.

ENTER: This 14th day of May, 2015.


Senior United States District Judge