

**UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
JACKSONVILLE DIVISION**

PATRICK FITZGERALD PORTER,

Petitioner,

vs.

Case No.: 3:18-cv-1353-J-32PDB

COMPTROLLER, PETER FRANCHOT,
AND FLORIDA ATTORNEY GENERAL

Respondent.

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ORDER

Mr. Hozae Lamar Milton initiated this action on behalf of Petitioner, Patrick Fitzgerald Porter, by filing a Petition Under 28 U.S.C. § 2254 for Writ of Habeas Corpus by a Person in State Custody. Doc. 1, Petition. Porter, however, is a federal inmate confined at Coleman Federal Correctional Institution and is currently serving a 182-year sentence of incarceration. See Porter v. United States, No. 3:10-cv-57-VMC-TEM (M.D. Fla. July 24, 2012) (Doc. 37). As such, since Porter is not in state custody, relief cannot be granted under § 2254.

Further, Porter has already filed a petition to vacate his sentence under 28 U.S.C. § 2255, and the Court adjudicated Porter's federal habeas claims challenging his judgment of conviction. See Porter, No. 3:10-cv-57-VMC-TEM (M.D. Fla. July 24, 2012) (Doc. 37). Thus, while the current allegations are nonsensical, to the extent Porter attempts to challenge his underlying conviction under § 2255, this Court has no authority to consider Porter's Petition without prior authorization from the

Eleventh Circuit Court of Appeals. See United States v. Holt, 417 F.3d 1172, 1175 (11th Cir. 2005) (citing Farris v. United States, 333 F.3d 1211, 1216 (11th Cir. 2003)).

Because the Eleventh Circuit has not authorized Porter to file a second or successive motion to vacate, the Court lacks jurisdiction.

Moreover, Mr. Milton is not an attorney licensed to practice in the State of Florida; thus, he is not allowed to sign and file pleadings on Porter's behalf. The Court admonishes Mr. Milton to refrain from filing unauthorized pleadings.¹

Accordingly, it is hereby

ORDERED AND ADJUDGED:

1. The Petition (Doc. 1) is **DISMISSED WITHOUT PREJUDICE** for lack of jurisdiction.

2. The Clerk of Court is directed to enter judgment **dismissing this case without prejudice**, terminating any pending motions, and closing the case.

DONE AND ORDERED at Jacksonville, Florida, this 21st day of November, 2018.



TIMOTHY J. CORRIGAN
United States District Judge

Jax-7

C: Patrick Fitzgerald Porter, #31423-018

¹ The Court has previously stricken pleadings filed by Mr. Milton, with admonitions to refrain from filing unauthorized pleadings. Hussien v. United States, No. 3:09-cv-118-J-25TEM (M.D. Fla. June 18, 2010); Milton v. State of Florida, No. 3:09-cv-135-J-32MCR (M.D. Fla. April 21, 2009).