

UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF FLORIDA  
TAMPA DIVISION

JOSHUA DOUGLAS HENDERSON,

Applicant,

v.

CASE NO. 8:24-cv-1293-SDM-UAM

SHERIFF BOB GUALTIERI,

Respondent.

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**ORDER**

An earlier order (Doc. 2) dismisses as premature Henderson’s application (Doc. 1) under 28 U.S.C. § 2241 for the writ of habeas corpus (1) because relief under Section 2241 is limited to the “violation of the Constitution or laws or treaties of the United States,” not the alleged violation of a state’s speedy trial rule, and (2) because exhaustion of state court remedies is required before relief is available in federal court. A later order (Doc. 5) denies Henderson’s paper captioned “Motion Confirming Exhaustion” (Doc. 4), which was construed as a motion under Rule 59(e), Federal Rules of Civil Procedure, to alter or amend a judgment.

Pending is Henderson’s “Motion for a More Definite Statement Pursuant to Fed.R.Civ.P. 12(e),” in which Henderson objects to the reasons stated in the order (Doc. 2) that dismisses his action. Because a court must afford a *pro se* party’s paper a generous interpretation, *Haines v. Kerner*, 404 U.S. 519 (1972) (*per curiam*), the

motion is construed as moving for relief under Rule 60(b), Federal Rules of Civil Procedure, because Rule 12 applies to an opposing party's pleading and not to an order but Rule 60 affords a party the opportunity to obtain reconsideration of an order.

Henderson is entitled to no relief under Rule 60. The earlier order that denies relief under Rule 59 explains that, because he is now in custody under a state court judgment and is no longer a pre-trial detainee, Henderson cannot obtain relief under Section 2241. The docket shows that that explanatory order (Doc. 5) was returned as undeliverable because Henderson was no longer in custody in the county jail. The pending motion shows that Henderson is now imprisoned in the Central Florida Reception Center for the Florida Department of Corrections.

Henderson's "Motion for a More Definite Statement Pursuant to Fed.R.Civ.P. 12(e) (Doc. 7), construed as a motion under Rule 60, Federal Rules of Civil Procedure, is **DENIED**. The clerk must forward to Henderson a copy of the earlier order (Doc. 5) that was returned as undeliverable.

ORDERED in Tampa, Florida, on July 11, 2024.



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STEVEN D. MERRYDAY  
UNITED STATES DISTRICT JUDGE