

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

United States ex rel
Sollog Immanuel Adonai-Adoni,
Petitioner,

Civil Action No. 06-4909

v.

Leon King, II, et al.,
Respondents.

MEMORANDUM / ORDER

Presently before the court is petitioner Sollog Immanuel Adonai-Adoni's motion for reconsideration (Docket No. 6) of my May 17, 2007 Memorandum and Order (Docket No. 5) ruling that his claims could not proceed under 28 U.S.C. § 2241, and requesting that he consent to proceed under 28 U.S.C. § 2254. The Memorandum and Order further placed petitioner on notice that if he did not consent within 30 days, this action would be dismissed without prejudice. Also before the court is petitioner's motion to compel discovery (Docket No. 2).

Petitioner claims that the Commonwealth of Pennsylvania is holding him in custody despite the fact that he has served the entirety (by his calculation) of his sentence. As this is a dispute over the execution of a state sentence while the petitioner is in state custody, controlling Third Circuit precedent holds that it is cognizable only under 28

U.S.C. § 2254, and not under 28 U.S.C. § 2241. *Coady v. Vaughn*, 251 F.3d 480, 485 (3d Cir. 2001). Therefore, the petitioner has not persuaded me to reconsider my ruling to that effect.

Because petitioner's case cannot proceed as filed, I will dismiss his motion to compel discovery as moot.

AND NOW this day of September, 2007, for the foregoing reasons, it is ORDERED that

- (1) Petitioner's motion to reconsider May 17, 2007 Memorandum/Order (Docket No. 5) is DENIED;
- (2) Petitioner's motion to compel discovery (Docket No. 2) is DISMISSED as moot.

BY THE COURT:

/s/ Louis H. Pollak

Pollak, J.