

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

<b>UNITED STATES OF AMERICA</b>	<b>:</b>	<b>CRIMINAL</b>
<b>v.</b>	<b>:</b>	
<b>JAMES EIN PHILLIPS</b>	<b>:</b>	<b>NO. 00-cr-419-8</b>
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<b>UNITED STATES OF AMERICA</b>	<b>:</b>	<b>CIVIL ACTION</b>
<b>v.</b>	<b>:</b>	
<b>JAMES EIN PHILLIPS</b>	<b>:</b>	<b>NO. 07-cv-3485</b>

**MEMORANDUM AND ORDER**

On August 22, 2007, petitioner James Ein Phillips filed a petition in this court for Habeas Corpus relief under 28 U.S.C. §2255, which attacked his federal conviction and sentence in this court in 00-cr-419-8, and which the Clerk of this Court properly labeled as 07-cv-3485. 07-cv-3485 was, and remains, Phillips' first and only habeas attack on his federal conviction and sentence in this court in 00-cr-419-8.

This aforesaid filing of August 22, 2007 was not on this court's current standard 28 U.S.C. §2255 form (as required by Local Rule of Civil Procedure 9.3(a)); therefore, in response to a subsequent Order of this Court, Phillips filed an amended 28 U.S.C. §2255 petition in 07-cv-3485 on September 12, 2007 using this court's aforesaid current standard form. Whereas this filing of September 12, 2007 was not signed by Phillips, this court issued a subsequent Order on October 16, 2007 dismissing 07-cv-3485 without prejudice, and directing the Clerk of this Court to furnish Phillips with a photocopy of his filing of September 12, 2007. Phillips was directed to sign this photocopy and return it to this court, at which time this court would reconsider the issue of whether 07-cv-3485 would remain dismissed. Phillips returned a signed copy of the aforesaid photocopy on October 26, 2007.

(We note, incidentally, that Phillips has filed for leave to proceed in forma pauperis in this matter, but has \$50.82 in his prison account).

Accordingly, this

Day of January, 2008, it is hereby

**ORDERED** as follows.

1. 07-cv-3485 is **REOPENED** for all purposes.
2. Phillips' application for leave to proceed *in forma pauperis* is **DENIED**.
3. Phillips is formally notified that whereas there is no filing fee in 28 U.S.C. §2255 cases, that it is not necessary, in any way, for a petitioner to request leave to proceed *in forma pauperis* in such a 28 U.S.C. §2255 matter, although a grant of leave to proceed *in forma pauperis* can entitle a petitioner to free filing of a notice of appeal in such a matter, if appropriate.

**S/ EDUARDO C. ROBRENO**  
**EDUARDO C. ROBRENO, U.S. District Judge**