



Thompson v. USP Leavenworth

2024 | Cited 0 times | D. Kansas | June 6, 2024

IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF KANSAS

KYLE M. THOMPSON,

Plaintiff, v. CASE NO. 24-3056-JWL USP LEAVENWORTH,

Defendant.

MEMORANDUM AND ORDER Request for Clarification (Doc. 5). Plaintiff seeks clarification of the Court's previous orders in this matter (Docs. 2 and 4). He asks why the Court sent the forms for a § 1983 action when he [f]iled a compassionate release to the prison for cruel and unusual punishment and release due to his issues and his parents medical needs. (Doc. 5, at 1.)

As previously explained (see Doc. 2), a motion for compassionate release must be filed in the sentencing court. See appears to be the United States District Court for Arizona. See *United States v. Thompson*, Case

No. 18-cr-08162-DGC-1 (D. Ariz.).

Plaintiff refers to compassionate release in connection with a claim of cruel and unusual punishment. His Complaint includes allegations about the conditions of his confinement. (Doc. 1, at 1-2.) A claim of cruel and unusual punishment in violation of the Eighth Amendment is properly brought in a lawsuit under 42 U.S.C. § 1983. However, release is not available as a remedy in a § 1983 action. See *Preiser v. Rodriguez*, 411 U.S. 475, 499 (1973).

Because Plaintiff has reiterated that he seeks compassionate release, this case is dismissed for improper venue.

IT IS THEREFORE BY THE COURT ORDERED that this matter is dismissed without prejudice. IT IS SO ORDERED.

Dated June 6, 2024, in Kansas City, Kansas.



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S/ John W. Lungstrum JOHN W. LUNGSTRUM

UNITED STATES DISTRICT JUDGE

