

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF KANSAS

ROBERT SAXON, JR.,

Petitioner,

vs.

CIVIL ACTION  
No. 10-3189-RDR

COLONEL ERIC BELCHER,

Respondent.

ORDER

This matter comes before the court on a petition for habeas corpus filed pursuant to 28 U.S.C. § 2241 by a prisoner at the United States Disciplinary Barracks, Fort Leavenworth, Kansas. Because petitioner has submitted neither the \$5.00 filing fee nor a motion for leave to proceed in forma pauperis, the court will direct him to submit such fee or motion.

The petition asserts multiple challenges to the imposition of mandatory supervised release, and these claims are nearly identical to those considered by this court in *Huschak v. Gray*, 642 F.Supp. 2d 1268 (D. Kan. 2009).<sup>1</sup> In that matter, the court rejected a military prisoner's challenge to his placement on MSR

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<sup>1</sup>A copy of that decision is attached.

by the Air Force Clemency and Parole Board and discussed in detail each of the claims now advanced by petitioner.

In *Huschak*, this court specifically held the AFCPB is statutorily authorized to impose involuntary conditions of relief under the MSR program, held that placement on the MSR program is not a multiple punishment that violates the Uniform Code of Military Justice or the Double Jeopardy Clause, held that no deprivation of a liberty interest in good conduct time and abatement days arises from placement in the MSR program because such credits are a factor in a prisoner's placement in the program, held that a military prisoner's placement on MSR need not be announced as part of the sentence, and held that the procedures used in imposing MSR were consistent with constitutional requirements.

Because it appears the present action is governed by the holding in *Huschak*, the court will direct petitioner to show cause why this petition should not be denied for the reasons stated in that decision.

IT IS, THEREFORE, BY THE COURT ORDERED petitioner is granted to and including November 12, 2010, to submit either the \$5.00 filing fee or a motion for leave to proceed in forma pauperis to the clerk of the court.

IT IS FURTHER ORDERED that on or before November 12, 2010,

petitioner shall show cause why this matter should not be dismissed for the reasons set forth herein. The failure to file a timely response may result in the dismissal of this matter without additional prior notice to the petitioner.

A copy of this order shall be transmitted to the petitioner.

**IT IS SO ORDERED.**

Dated at Topeka, Kansas, this 18<sup>th</sup> day of October, 2010.

S/ Richard D. Rogers  
RICHARD D. ROGERS  
United States Senior District Judge