

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF KANSAS

MICHEAL FRANCOIS
aka
CURTIS PITTER,

Petitioner,

v.

CASE NO. 11-3223-RDR

SHELTON RICHARDSON,

Respondent.

MEMORANDUM AND ORDER

This matter comes before the court on petitioner's motion for reconsideration (Doc. 10). The court dismissed this matter without prejudice by its Memorandum and Order of January 27, 2012, finding petitioner's claims should be presented by a motion pursuant to 28 U.S.C. § 2255 rather than a petition for habeas corpus filed pursuant to 28 U.S.C. § 2241. Petitioner executed a notice of appeal and a motion for leave to proceed in forma pauperis on February 9, 2012, and those pleadings were docketed by the clerk of the court on February 14, 2012. The appeal was docketed on the same day, and on February 15, 2012, this court granted the motion to proceed in forma pauperis.

On February 15, 2012, petitioner executed the present motion for reconsideration, which was docketed on February 21, 2012, after the notice of appeal was filed.

The court concludes the motion must be denied for lack of jurisdiction. See *Griggs v. Provident Consumer Discount Co.*, 459 U.S. 56, 58 (1982)("[It is] generally understood that a federal district court and a federal court of appeals should not attempt to assert jurisdiction over a case simultaneously. The filing of a notice of appeal is an event of jurisdictional significance-it confers jurisdiction on the court of appeals and divests the district court of its control over those aspects of the case involved in the appeal.")(citations omitted).

IT IS, THEREFORE, BY THE COURT ORDERED petitioner's motion for reconsideration (Doc. 10) is denied for lack of jurisdiction.

Copies of this order shall be transmitted to the parties and to the U.S. Court of Appeals for the Tenth Circuit.

IT IS SO ORDERED.

DATED: This 27th day of February, 2012, at Topeka, Kansas.

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