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UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

CARLTON MOSLEY, aka)	Case No. CV 09-7178-ABC(RC)
CARLTON MOSLEY, SR.,)	
)	
Petitioner,)	
)	OPINION AND ORDER ON A
vs.)	PETITION FOR HABEAS CORPUS
)	
J. WALKER (WARDEN),)	
)	
Respondent.)	
)	

On October 2, 2009, petitioner Carlton Mosley, aka Carlton Mosley, Sr., a state inmate proceeding pro se, filed a habeas corpus petition under 28 U.S.C. § 2254, which this Court dismissed with leave to amend under Rule 12(e) due to petitioner's failure to set forth his grounds for relief and supporting facts, and ordered petitioner to file an amended petition within thirty days. However, petitioner has not filed an amended petition.

DISCUSSION

Rule 1 of the Rules Governing Section 2254 Cases in the United States District Courts ("Rules") provides that the Rules govern the procedure in the federal district courts on an application under 28 U.S.C. § 2254 by a person in custody pursuant to a judgment of a state court. 28 U.S.C. § 2254, Rule 1. Rule 2(c) requires that the


1 petition shall specify all grounds for relief, as well as the facts
2 supporting each ground. Id. Here, petitioner did not specify any
3 grounds for relief or any supporting facts. Thus, the Court dismissed
4 the petition with leave to amend, although this Court could have
5 immediately summarily dismissed the petition, and afforded petitioner
6 30 days to file an amended petition. Moreover, the Court advised
7 petitioner that failure to timely file an amended petition could
8 result in dismissal of the action. Although more than thirty days
9 have passed, petitioner has not filed an amended petition.

10
11 Rule 4 of the Rules Governing Section 2254 Cases in the United
12 States Courts provides that "[i]f it plainly appears from the face of
13 the petition and any exhibits annexed to it that the petitioner is not
14 entitled to relief in the district court, the judge shall make an
15 order for its summary dismissal. . . ." 28 foll. U.S.C. § 2254,
16 Rule 4. Since the petition is defective on its face, and does not set
17 forth any grounds for relief or supporting facts, it should now be
18 summarily dismissed without prejudice.

19
20 **ORDER**

21 IT IS HEREBY ORDERED that Judgment shall be entered SUMMARILY
22 DISMISSING without prejudice the petition for writ of habeas corpus.

23 DATE: Nov. 12, 2009



AUDREY B. COLLINS
CHIEF UNITED STATES DISTRICT JUDGE

24
25 PRESENTED BY:

26 DATE: November 12, 2009

27 /S/ ROSALYN M. CHAPMAN
ROSALYN M. CHAPMAN
28 UNITED STATES MAGISTRATE JUDGE