

C/M

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

-----X
 REGINA LEWIS,

 Petitioner,

 - against -

 K. ASK-CARLSON (WARDEN), MDC
 BROOKLYN,

 Respondent.
 -----X

DECISION & ORDER

14 Civ. 6249 (BMC)

COGAN, United States District Judge:

Before me is a petition for *habeas corpus* pursuant to 28 U.S.C. § 2241, filed *pro se* during the pendency of petitioner’s criminal prosecution in this Court for threatening a United States Judge. See United States v. Lewis, No. 12-CR-655 (BMC). The petition challenged her pretrial detention and sought her release. By order dated September 9, 2014, the Court granted petitioner’s request to proceed *in forma pauperis*. On October 27, 2014, petitioner was convicted of violating 18 U.S.C. § 115(a)(1)(B). She currently is incarcerated pending sentencing, which has been set for January 28, 2015.

At the time she filed this proceeding, it was premature. “Where a defendant is awaiting trial, the appropriate vehicle for violations of h[er] constitutional rights are pretrial motions or the expedited appeal procedure provided by the Bail Reform Act, . . . and not a habeas corpus petition.” Ali v. United States, No. 12-CV-0816, 2012 WL 4103867, at *1 (W.D.N.Y. Sept. 14, 2012) (quoting Whitmer v. Levi, 276 F. App’x 217, 219 (3d Cir. April 28, 2008)) (internal

quotation marks omitted). Here, as in Ali, “[a]dequate remedies [we]re available in petitioner's criminal case, and, therefore, petitioner [wa]s not entitled to habeas corpus relief.”¹

In any event, as a result of her conviction, petitioner’s request for release from pre-trial detention is moot. See Reed v. Caulfield, 734 F. Supp. 2d 23, 24 (D. D.C. 2010) (citing Thorne v. Warden, 479 F.2d 297 (2d Cir.1973)).

The Clerk of Court is directed to enter judgment dismissing the petition. The Court certifies under 28 U.S.C. § 1915(a)(3) that any appeal from this order would not be taken in good faith, and therefore *in forma pauperis* status is denied for the purpose of an appeal. See Coppedge v. United States, 369 U.S. 438, 444-45 (1962).

SO ORDERED.

Digitally signed by Brian M.
Cogan



U.S.D.J.

Dated: Brooklyn, New York
October 28, 2014

¹ In fact, petitioner brought an effectively identical challenge in the form of a motion to dismiss her indictment and for release, which the Court (Hellerstein, J.) denied on March 20, 2014, finding the duration of petitioner’s confinement legal and constitutional.