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6 **IN THE UNITED STATES DISTRICT COURT**
7 **FOR THE DISTRICT OF ARIZONA**
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9 Jorge Villa,

No. CV 13-8123-PCT-DGC (MEA)

10 Petitioner,

11 vs.

ORDER

12 United States of America,

13 Respondent.
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15 Petitioner Jorge Villa, who is confined in the Arizona State Prison-Kingman,
16 Hualapai Unit, filed a Petition for Writ of Habeas Corpus Ad Prosequendum. (Doc. 1.)
17 The Court construes the Petition as one brought under 28 U.S.C. § 2241. The Court will
18 summarily deny the Petition and this action.

19 **I. Background**

20 On January 28, 2005, Petitioner, in *United States v. Villa*, CR 04-02476-001-TUC-
21 RCC (GEE) (D. Ariz. 2004), pled guilty to conspiracy to harbor and transport illegal
22 aliens. Petitioner was sentenced on April 20, 2005 to three years on probation.¹ On
23 March 5, 2008, Petitioner was convicted in Maricopa County Superior Court, case
24 CR2007-14244, of kidnapping and aggravated assault.² On May 6, 2008, he was
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27 ¹ See *United States v. Villa*, CR 04-02476-001-TUC-RCC (GEE) (D. Ariz. 2004),
<https://ecf.azd.circ9.dcn/doc1/025111277775> (Doc. 55) (last visited July 19, 2013).

28 ² See <http://www.courtminutes.maricopa.gov/docs/Criminal/052008/m3175366.pdf>
(last visited July 18, 2013).

1 sentenced to seven and nine years to be served concurrently.³ Petitioner is currently
2 serving his sentence in the Arizona State Prison-Kingman. Prior to Petitioner's
3 conviction in the state criminal case, a petition to revoke probation in Petitioner's federal
4 criminal case was filed on June 25, 2007 based on failures to comply with certain
5 conditions of probation.⁴

6 According to Petitioner, the United States Marshal has placed a detainer on him
7 pursuant to the arrest warrant issued by the District Court based on the petition to revoke
8 probation in his federal criminal case. Petitioner seeks "speedy disposition of this
9 complaint, warrant and detainer pursuant to Federal Criminal Procedure and United
10 States Code." (Doc. 1 at 2.)

11 **II. Federal Habeas Relief Not Available**

12 Petitioner's petition must be dismissed as habeas relief is unavailable. There is no
13 constitutional right to disposition of probation violation charges prior to the expiration of
14 a separate sentence. *See Moody v. Daggett*, 429 U.S. 78, 89 (1976) (holding that parolee,
15 imprisoned for a crime while on parole, was not entitled to an immediate parole
16 revocation hearing on an unexecuted warrant for parole violations and detainer lodged
17 with his present institution of confinement); *Gagnon v. Scarpelli*, 411 U.S. 778, 783
18 (1973) (finding that rights of probationers and parolees in revocation hearings are
19 fundamentally identical). It is only upon execution of a warrant and custody under that
20 warrant that a petitioner's liberty interests are affected. *Moody*, 429 U.S. at 87 ("loss of
21 liberty as a parole violator does not occur until the parolee is taken into custody under the
22 warrant"). Petitioner here does not contend that the warrant issued has been executed or
23 that he has been taken into custody pursuant to that warrant. Thus, he has no right to
24 disposition of the probation violation warrant prior to the expiration of his current
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26 ³See <http://www.courtminutes.maricopa.gov/docs/Criminal/052008/m3175366.pdf>
27 (last visited July 18, 2013).

28 ⁴ *United States v. Villa*, CR 04-02476-001-TUC-RCC (GEE) (D. Ariz. 2004)
(Doc. 64).

1 sentence. *See id.* at 86-87; *see also United States v. Garrett*, 253 F.3d 443, 447-48 (9th
2 Cir. 2001) (government's postponement of plaintiff's revocation hearing until release
3 from state custody does not violate 18 U.S.C. § 3583(i)). Accordingly, Petitioner's
4 Petition and this action will be summarily dismissed.

5 **IT IS ORDERED:**

6 (1) The Petition (Doc. 1) and this action are **dismissed**.

7 (2) The Clerk of Court must enter judgment accordingly and close this case.

8 (3) Pursuant to Rule 11(a) of the Rules Governing Section 2255 Cases, in the
9 event Petitioner files an appeal, the Court declines to issue a certificate of appealability
10 because reasonable jurists would not find the Court's procedural ruling debatable. *See*
11 *Slack v. McDaniel*, 529 U.S. 473, 484 (2000).

12 Dated this 23rd day of July, 2013.

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17 David G. Campbell
18 United States District Judge
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