

**IN THE UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF ARKANSAS  
HELENA DIVISION**

BONIFACIO VARGAS-MELENDEZ  
aka BONIFACIO VARGAS-MELENDRÉS  
REG. #89858-080

PETITIONER

VS.

2:07CV00023 JMM/JTR

UNITED STATES OF AMERICA

RESPONDENT

**ORDER**

Petitioner, who is currently incarcerated at the Federal Correctional Institute located in Forrest City, Arkansas, has filed a “Petition of Habeas Corpus To Stay Deportation Proceeding Pending a Determination of the Board of Immigration Appeals.” (Docket entry #5.) The Petition was originally filed on January 24, 2007, in the Northern District of Texas (Dallas Division). *Vargas-Melendez v. United States of America*, N.D. Tex. No. 3:07CV00179. The District Court liberally construed the Petition as requesting habeas relief pursuant to 28 U.S.C. § 2241 and transferred the case to the Eastern District of Arkansas after Petitioner began his incarceration in FCI Forrest City. In doing so, the transferor Court noted that Petitioner had neither paid the filing fee nor filed a Motion for Leave to Proceed *In Forma Pauperis*. (Docket entry #5.)

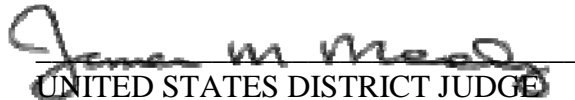
On February 15, 2007, the Court entered an order directing the Clerk to send Petitioner an Application to Proceed *In Forma Pauperis*, and explaining that, if Petitioner wished to continue with this action, he must either pay the \$5.00 filing fee in full or file the Application on or before March 2, 2007. (Docket entry #6.) On March 2, 2007, Petitioner filed a Motion to Appoint Counsel (docket entry #9), but failed to pay the filing fee or file an Application to Proceed *In Forma Pauperis*.

On March 22, 2007, the Court entered another Order giving Petitioner “one more opportunity” to proceed with the action by either paying the filing fee, or filing an Application to Proceed In Forma Pauperis, on or before April 13, 2007. (Docket entry #10.)

In both Orders, the Court specifically advised Petitioner that, if he failed to timely comply with the Order, his habeas action may be dismissed, without prejudice, pursuant to Local Rule 5.5(c)(2). *Id.* As of the date of this Order, Petitioner has neither submitted a properly completed Application to Proceed *In Forma Pauperis*, nor paid the filing fee, and the time for doing so has now expired.

IT IS THEREFORE ORDERED THAT the Petition for a Writ of Habeas Corpus under 28 U.S.C. § 2241 (docket entry #5), Motion to Stay Deportation Proceedings (docket entry #8), and Motion to Appoint Counsel (docket entry #9) are DENIED, and this habeas action is DISMISSED, WITHOUT PREJUDICE.

Dated this 23 day of April, 2007.

  
UNITED STATES DISTRICT JUDGE