

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO

Civil Action No. 09-cv-01204-BNB

ARTURO MURILLO,

Applicant,

v.

KEVIN MILYARD, Warden, and
THE ATTORNEY GENERAL OF THE STATE OF COLORADO,

Respondents.

FILED
UNITED STATES DISTRICT COURT
DENVER, COLORADO

AUG 17 2009

GREGORY C. LANGHAM
CLERK

ORDER OF DISMISSAL


This matter is before the Court on the response to the July 29, 2009, second order to show cause submitted by Applicant, Arturo Murillo, and filed with the Court on August 11, 2009. In the July 29 order, the Court directed Mr. Murillo to show cause within thirty days why the habeas corpus application pursuant to 28 U.S.C. § 2254 challenging the validity of his conviction in Denver District Court case number 06CR10697 should not be denied as a mixed petition. Alternatively, the Court informed Mr. Murillo that he may dismiss voluntarily the unexhausted claim one and proceed with the exhausted claims two and three, and explained the consequences of voluntarily dismissing his unexhausted claim and proceeding with his exhausted claims.

In the response to the July 29, 2009, order, Mr. Murillo states that he wishes to dismiss voluntarily the application so that he may exhaust his unexhausted claims, including claim one, before proceeding in federal court. Accordingly, it is

ORDERED that the habeas corpus application is denied and the action dismissed without prejudice as a mixed petition.

DATED at Denver, Colorado, this 14 day of Aug., 2009.

BY THE COURT:



ZITA L. WEINSHIENK, Senior Judge
United States District Court

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO

CERTIFICATE OF MAILING

Civil Action No. 09-cv-01204-BNB

Arturo Murillo
Prisoner No. 132674
Sterling Correctional Facility
PO Box 6000
Sterling, CO 80751

John T. Lee
Assistant Attorney General
DELIVERED ELECTRONICALLY

I hereby certify that I have mailed a copy of the **ORDER** to the above-named individuals on 8/17/09

GREGORY C. LANGHAM, CLERK

By: 

Deputy Clerk