

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO

Civil Action No. 13-cv-00207-BNB

CHESTER LEE RENEAU,

Applicant,

v.

JAMES FALK, and
THE ATTORNEY GENERAL OF THE STATE OF COLORADO,

Respondents.

ORDER DISMISSING CASE

Applicant, Chester Lee Reneau, is a prisoner in the custody of the Colorado Department of Corrections at the Sterling Correctional Facility in Sterling, Colorado. Mr. Reneau initiated this action by filing *pro se* an Application for a Writ of Habeas Corpus Pursuant to 28 U.S.C. § 2254 (ECF No. 1) challenging the validity of his conviction in Larimer County District Court case number 10CR1651. On February 15, 2013, Respondents filed an Amended Pre-Answer Response (ECF No. 11) arguing that Mr. Reneau has failed to exhaust state court remedies. On March 11, 2013, Mr. Reneau filed a Motion to Dismiss (ECF No. 12) asking that the instant action be dismissed without prejudice.

Pursuant to Rule 41(a)(2) of the Federal Rules of Civil Procedure, “an action may be dismissed at the plaintiff’s request only by court order, on terms that the court considers proper.” Because Mr. Reneau’s request is consistent with Respondents’ argument in their Amended Pre-Answer Response, the motion to dismiss will be

granted. Accordingly, it is

ORDERED that Applicant's Motion to Dismiss (ECF No. 12) filed on March 11, 2013, is GRANTED. It is

FURTHER ORDERED that the habeas corpus application is denied and the action is dismissed without prejudice. It is

FURTHER ORDERED that no certificate of appealability will issue because Applicant has not made a substantial showing of the denial of a constitutional right.

DATED at Denver, Colorado, this 18th day of March, 2013.

BY THE COURT:

s/Lewis T. Babcock
LEWIS T. BABCOCK, Senior Judge
United States District Court