

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO

Civil Action No. 13-cv-02558-LTB

CRAIG ROBLED0-VALDEZ,

Applicant,

v.

UNITED STATES OF AMERICA,
J. DAVIS, and
SUTHERS, Attorney General of the State of Colorado,

Respondents.

ORDER REINSTATING ACTION

This matter is before the Court on the Petition for Rehearing filed *pro se* by Applicant, Craig Robledo-Valdez, on January 7, 2014. On December 23, 2013, after reviewing the Pre-Answer Response (ECF No. 13) filed by Respondents J. Davis and Suthers, the Court entered an order dismissing this action because the due process claim Mr. Robledo-Valdez asserts in the habeas corpus application is procedurally barred. Mr. Robledo-Valdez alleges in the Petition for Rehearing that he never received a copy of the Pre-Answer Response and, as a result, has not had an opportunity to respond to the arguments raised in the Pre-Answer Response.

The certificate of service attached to the Pre-Answer Response indicates that a copy was mailed to Mr. Robledo-Valdez at the Denver Reception and Diagnostic Center on October 30, 2013 (see ECF No. 13 at 22), which is the address Mr. Robledo-Valdez listed in his original pleading filed on September 18, 2013 (see ECF No. 1 at 8).

Although the Court's docketing records for this action do not indicate that Mr. Robledo-Valdez filed a notice of change of address, the amended pleading he filed on October 17, 2013, indicates he was housed at the Buena Vista Correctional Facility at that time, and one of the named Respondents, J. Davis, apparently is the warden of that facility. (See ECF No. 4 at 9.) Mr. Robledo-Valdez alleges in a Memorandum (ECF No. 18) filed on January 7, 2014, that he currently is confined at the Denver County Jail.

The Court finds that the interests of justice would be served by vacating the order dismissing this action and giving Mr. Robledo-Valdez an opportunity to address the arguments raised in the Pre-Answer Response. Therefore, the Petition for Rehearing will be granted and the case will be returned to the Pro Se Docket in accordance with the local rules for the District of Colorado. Accordingly, it is

ORDERED that the Petition for Rehearing (ECF No. 19) is GRANTED. It is FURTHER ORDERED that the Order of Dismissal (ECF No. 15) and the Judgment (ECF No. 16) entered in this action on December 23, 2013, are VACATED. It is

FURTHER ORDERED that the clerk of the Court reinstate and return this action to the Pro Se Docket.

DATED at Denver, Colorado, this 10th day of January, 2014.

BY THE COURT:

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