

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO

Civil Action No. 14-cv-01543-BNB

JONATHAN WRAY HOVEY,

Applicant,

v.

PEOPLE OF THE STATE OF COLORADO, and
UNITED STATES OF AMERICA,

Respondents.

ORDER OF DISMISSAL

Applicant, Jonathan Wray Hovey, initiated this action by filing *pro se* a pleading titled "Writ of Habeas Corpus" in which he challenges a federal detainer. Magistrate Judge Boyd N. Boland directed Applicant to file his claims on a Court approved form used in filing 28 U.S.C. § 2241 actions. On June 13, 2014, Applicant complied and filed his claims on a proper Court-approved form. Applicant asserts in the Application that he has been held for four months on a U.S. Postal Inspection Detainer without explanation and requests that he be taken into federal custody for an appearance in court.

Magistrate Judge Boland then ordered Respondents to file a Preliminary Response limited to addressing the affirmative defense of exhaustion of available remedies with respect to the detainer. On August 8, 2014, Respondent United States of America filed a Preliminary Response and stated that this case is moot because Applicant has received the relief he requests. Respondent asserts that on July 29, 2014, Applicant appeared in the custody of the United States Marshals Service and had an initial appearance in federal district court. See Prelim Resp., ECF No. 14-3, Ex. 3.

On August 1, 2014, Applicant appeared again in court for an arraignment and detention hearing and did not contest detention. See *id.*, ECF No. 14-4, Ex. 4. Respondent concludes that because Applicant has been advised of the federal criminal charges against him and remanded into federal custody he has received the relief he requested in the Application.

Applicant did not reply to the Preliminary Response within the time allowed and disagree with Respondent's assertions. The Court, therefore, will dismiss this action as moot.

The Court also certifies pursuant to 28 U.S.C. § 1915(a)(3) that any appeal from this order would not be taken in good faith and therefore *in forma pauperis* status will be denied for the purpose of appeal. See *Coppedge v. United States*, 369 U.S. 438 (1962). If Applicant files a notice of appeal he also must pay the full \$505 appellate filing fee or file a motion to proceed *in forma pauperis* in the United States Court of Appeals for the Tenth Circuit within thirty days in accordance with Fed. R. App. P. 24. Accordingly, it is

ORDERED that the Application is denied as moot and the action is dismissed with prejudice. It is

FURTHER ORDERED that leave to proceed *in forma pauperis* on appeal is denied.

DATED at Denver, Colorado, this 9th day of September, 2014.

BY THE COURT:

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