

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO

Civil Action No. 14-cv-01926-BNB

HAROLD M. CARMENOROS,

Petitioner,

v.

UNITED STATES OF AMERICA,

Respondent.

ORDER OF DISMISSAL

Petitioner, Harold M. Carmenoros, is being detained at the Boulder County Jail in Boulder, Colorado. Mr. Carmenoros has filed *pro se* a Petition Under 28 U.S.C. § 2254 for Writ of Habeas Corpus by a Person in State Custody (ECF No. 1) seeking to be brought before the Court to answer charges that he has violated his supervised release in his federal criminal case. *See United States v. Carmenoros*, No. 06-cr-00149-LTB (D. Colo. Dec. 20, 2007). The Court must construe the petition liberally because Mr. Carmenoros is not represented by an attorney. *See Haines v. Kerner*, 404 U.S. 519, 520-21 (1972); *Hall v. Bellmon*, 935 F.2d 1106, 1110 (10th Cir. 1991). However, the Court should not be an advocate for a *pro se* litigant. *See Hall*, 935 F.2d at 1110.

An application for a writ of habeas corpus pursuant to § 2254 challenges the validity of a state court conviction or sentence. *See Montez v. McKinna*, 208 F.3d 862, 865 (10th Cir. 2000). Mr. Carmenoros is not challenging the validity of a state court criminal conviction or sentence. Therefore, the relief Mr. Carmenoros seeks is not available in this action and the petition must be denied. Any relief Mr. Carmenoros may

seek with respect to pending charges that he has violated his supervised release must be brought in the context of his criminal case. The Court will not order that the petition be filed in the criminal case because Mr. Carmenoros alleges he already has made such a request in his criminal case.

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 Petitioner 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 petition is denied and the action is dismissed without prejudice because the relief Petitioner seeks is not available in a habeas corpus action pursuant to 28 U.S.C. § 2254. It is

FURTHER ORDERED that leave to proceed *in forma pauperis* on appeal is denied without prejudice to the filing of a motion seeking leave to proceed *in forma pauperis* on appeal in the United States Court of Appeals for the Tenth Circuit.

DATED at Denver, Colorado, this 15th day of July, 2014.

BY THE COURT:

s/Christine M. Arguello
CHRISTINE M. ARGUELLO
United States District Judge, for
LEWIS T. BABCOCK, Senior Judge
United States District Court