

UNITED STATES DISTRICT COURT  
DISTRICT OF MINNESOTA

Juan M. Martinez,

Petitioner,

v.

ORDER

Civil No. 12-2177

Scott P. Fisher, Warden,

Respondent.

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Petitioner, *pro se*.

Lonnie F. Bryan, Assistant United States Attorney, Counsel for  
Respondent.

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This matter is before the Court upon Petitioner's objections to Magistrate Judge Boylan's Order dated September 11, 2012 [Doc. No. 3] dismissing the habeas petition without prejudice; allowing Petitioner the opportunity to replead and pay the required partial filing fee; and notifying Petitioner that failure to comply will result in a recommendation to dismiss without prejudice. The Court will treat the Magistrate Judge's Order as a Report and Recommendation, and conduct a *de novo* review. Based on such review, the Court will adopt the Magistrate Judge's findings and order as follows:

IT IS HEREBY ORDERED that to the extent Petitioner asserts claims under 28 U.S.C. § 2241, such claims are dismissed with prejudice. Petitioner may file a non-habeas, civil pleading in this case that complies with the pleading requirements prescribed in Fed. R. Civ. P. 8-11 and Local Rule 9.3. If Petitioner elects to file such a pleading, Petitioner must include with this filing an initial partial filing fee in the amount of \$89.71. Failure to comply with the above on or before 30 days from the date of this Order will result in dismissal of this action without prejudice.

Date: October 31, 2012

s/ Michael J. Davis

Michael J. Davis

Chief Judge

United States District Court