

1
2
3
4 UNITED STATES DISTRICT COURT
5 DISTRICT OF NEVADA

6 * * *

7 ABRAHAM LAMIN ADOKA,

Case No. 2:13-cv-00796-MMD-NJK

8 Petitioner,

ORDER

9 v.

10 ERIC H. HOLDER, JR.,

11 Respondents.

12
13 This habeas matter comes before the Court for initial review.

14 The papers presented are subject to multiple defects.

15 First, under Local Rule LSR 1-1, a litigant seeking to proceed without paying the
16 filing fee must file an application to proceed *in forma pauperis* on the Court's required
17 form. Petitioner did not use the required form but instead submitted a typewritten
18 application styled as an application for a fee waiver. Petitioner must use the required
19 form.

20 Second, under Local Rule LSR 1-2, a pauper application submitted by an
21 incarcerated or institutionalized person must be accompanied by both a financial
22 certificate executed by an authorized institutional officer and a statement of his inmate
23 trust account for the prior six months. Petitioner, who is in the Henderson Detention
24 Center, attached neither.¹

25 ¹The Court does not imply that an immigration detainee must comply with the
26 requirements of the Prisoner Litigation Reform Act (PLRA), as an immigration detainee
27 does not constitute a "prisoner under" that Act. See 28 U.S.C. § 1915(h). Local Rule
28 LSR 1-2, however, is not limited to persons detained or incarcerated in connection with
criminal proceedings. The Court uses the financial materials required by the local rule
to evaluate the financial ability to pay of persons in all types of custody. Petitioner
should note that the filing fee for a habeas action is \$5.00.

1 Third, under Local Rule LSR 3-1, a petition for a writ of habeas corpus filed *pro*
2 se must be on the Court's required form. The required form for a § 2241 petition is an
3 AO 242 form. The typewritten petition did not use the required form.


4 Given the nature of the petition presented, which challenges petitioner's
5 detention pending removal, it does not appear that a dismissal without prejudice of this
6 improperly-commenced action will constitute the functional equivalent of a dismissal
7 with prejudice.

8 IT IS THEREFORE ORDERED that this action is DISMISSED without prejudice
9 to the filing of a new petition on the required form in a new action under a new docket
10 number accompanied by either the required filing fee or a properly completed
11 application to proceed *in forma pauperis*, with all required attachments.

12 The Clerk of Court shall send petitioner two (2) copies of an AO 242 form (which
13 includes instructions), two (2) copies of a pauper form for a person in custody, one (1)
14 copy of the instructions for the pauper form, and a copy of the papers that he submitted
15 in this action.

16 The Clerk shall enter final judgment accordingly, dismissing this action without
17 prejudice.

18
19 DATED THIS 23rd day of May 2013.

20
21 
22 _____
23 MIRANDA M. DU
24 UNITED STATES DISTRICT JUDGE
25
26
27
28