

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY

JORGE I. ROLON,

Petitioner,

v.

UNITED STATES OF AMERICA,

Respondent.

Civil Action
No. 17-12447 (RBK)

MEMORANDUM AND ORDER

KUGLER, District Judge:

Before the Court is a Motion for Discovery to Prepare a Motion to Vacate, Set Aside, or Correct a Sentence pursuant to 28 U.S.C. § 2255 signed by pro se Petitioner Jorge I. Rolon (hereinafter, “Petitioner”).

Habeas petitioners are not entitled to discovery as a matter of ordinary course. *See Bracy v. Gramley*, 520 U.S. 899, 904 (1997). The pre-petition discovery Petitioner seeks “is neither specifically allowed nor contemplated by the Habeas Rules or the Federal Rules of Civil Procedure.” *Orbe v. True*, 201 F. Supp. 2d 671, 680 (E.D. Va. 2002) (refusing to permit pre-habeas petition discovery). Petitioner must first file a formal motion under 28 U.S.C. § 2255 before this Court may authorize discovery.

Further, under Local Civil Rule 81.2(a), “Unless prepared by counsel, . . . motions under 28 U.S.C. § 2255 shall be in writing (legibly handwritten in ink or typewritten), signed by the petitioner or movant, on forms supplied by the Clerk.” Petitioner did not use the most recent habeas form supplied by the Clerk for § 2255 motions, *i.e.*, AO 243 (modified).

THEREFORE it is on this 30th day of January, 2018;

ORDERED that Petitioner's Motion for Discovery to Prepare a Motion to Vacate, Set Aside, or Correct a Sentence pursuant to 28 U.S.C. § 2255 is **DENIED**; and it is further

ORDERED that the Clerk of the Court shall **administratively terminate** this case for Petitioner's failure to file a § 2255 motion on the proper form; and it is further

ORDERED that the Clerk of the Court shall forward to Petitioner a blank form for § 2255 motions, AO 243 (modified): DNJ-Habeas-004 (Rev. 01-2014); and it is further

ORDERED that the Clerk's service of the blank § 2255 form shall not be construed as this Court's finding that the petition is or is not timely, or that Petitioner's claims are or are not procedurally defaulted; and it is further

ORDERED that if Petitioner wishes to reopen this case, he shall so notify the Court, in writing addressed to the Clerk of the Court, Mitchell H. Cohen Building and U.S. Courthouse, 4th and Cooper Streets, Camden, New Jersey, 08101, within 30 days of the date of entry of this Order. Petitioner's writing shall include a complete application on the proper form; and it is further

ORDERED that upon receipt of a writing from Petitioner stating that he wishes to reopen this case, and a complete application on the proper form, the Clerk of Court will be directed to reopen this case; and it is finally

ORDERED that the Clerk of the Court shall serve a copy of this Order upon Petitioner by regular U.S. mail.

s/Robert B. Kugler
ROBERT B. KUGLER
U.S. District Judge