



unless it appears from the application that the applicant or person detained is not entitled thereto.” 28 U.S.C. § 2243. The Court finds that Valencia is not entitled to habeas relief in this matter.

### **III. Analysis**

Habeas corpus is the remedy in a suit wherein a party is “seeking release not from prison but just from a more to a less confining form of incarceration” as well as one “seeking not just release but also expungement of the disciplinary sanction from his record.” *Del Raine v. Carlson*, 826 F.2d 698, 702 (7th Cir.1987); *see also Boudin v. Thomas*, 732 F.2d 1107, 1111-12 (2d Cir. 1984) (holding that an action seeking transfer from a more to a less restrictive prison environment is properly cognizable under habeas corpus and not through a *Bivens* action). This matter does not address the length or execution of Valencia’s prison term. While he alludes to potential conflicts upon his release from prison, he fails to state a justiciable claim under § 2241. As such, his petition is properly dismissed.

Moreover, any action sought against an agency should first be exhausted through the administrative process because resolving to solve it court. *See Weinberger v. Salfi*, 422 U.S. 749 (1975). The purpose of the exhaustion doctrine is to allow the administrative agency in question to exercise its expertise over the subject matter and to permit the agency an opportunity to correct any mistakes that may have occurred during the proceeding, thus avoiding unnecessary or premature judicial intervention into the administrative process. *Id.* at 765. There is nothing to indicate that Valencia has made any attempt to exhaust his administrative remedies. This provides a second ground for dismissal of this action.

### **IV. Conclusion**

Based on the foregoing, Valencia’s Motion to Proceed *in forma pauperis* is granted and this

petition is dismissed pursuant 28 U.S.C. § 2243. The court certifies that an appeal from this decision could not be taken in good faith.

IT IS SO ORDERED.

Date: February 3, 2010

/s/ John R. Adams  
JOHN R. ADAMS  
UNITED STATES DISTRICT JUDGE