

MAR 01 2012

JULIA C. DUDLEY, CLERK  
BY: *J. McDonald*  
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IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF VIRGINIA  
ROANOKE DIVISION

HECTOR MOREL, ) Civil Action No. 7:12-cv-00071  
Petitioner, )  
 )  
v. ) MEMORANDUM OPINION  
 )  
DISTRICT COURT, )  
Respondent. ) By: Hon. Jackson L. Kiser  
Senior United States District Judge

Hector Morel, a federal prisoner proceeding pro se, filed a document titled, "Appeal: District Court Instruction to Clerk" with the United States Court of Appeals for the Third Circuit. An attachment to this document was titled, "Motion Rule 35(a) Fed. R. Crim. P." and requested a "correction of sentence after Judgment is [not yet entered] on supervised release revocation hearing at a federal detention center by the U.S. Parole Commission on Nov[ember] 3, 2011." (Pet. 3.) By Order dated February 10, 2012, the Clerk of the Third Circuit Court of Appeals construed petitioner's filings as seeking "a writ of habeas corpus with regard to parole revocation proceedings" and forwarded the filings to this court's Clerk because petitioner is incarcerated within this district. See 28 U.S.C. § 2241(a) (requiring § 2241 habeas petitions to be filed within the district of confinement).

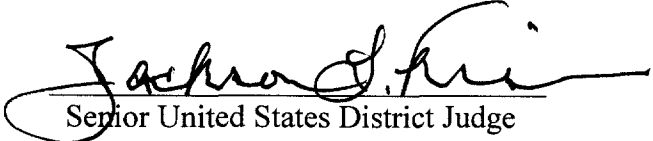
By a conditional filing order entered on February 16, 2012, the court advised petitioner that his filings did not conform to the requirements for habeas petitions and that he must pay the \$5.00 filing fee. See 28 U.S.C. § 1914(a); Rule 1(b), 2 of the Rules Gov. § 2254 Cases. The court provided petitioner fifteen days to file an amended petition and to pay the filing fee.

Petitioner filed his response to the conditional filing order and objects to the Court of Appeals' and my consideration of his pleadings as a petition for a writ of habeas corpus. Petitioner argues that the courts' construction deprives him due process because he specifically

wants a direct appeal of his supervised release revocation hearing at the federal detention center. Petitioner asks me to return his original motions and documents to the Superior Court of the District of Columbia. I construe his request as a motion to voluntarily dismiss this action without prejudice so petitioner may present his claims to a different court. Petitioner's request is granted, and the Clerk shall return plaintiff's pleadings that were forwarded to this court, if available.

The Clerk is directed to send a copy of this Memorandum Opinion and the accompanying Order to petitioner.

ENTER: This 1<sup>st</sup> day of March, 2012.

  
Senior United States District Judge