

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

FILED
JUN 15 2010
Clerk, U.S. District & Bankruptcy
Courts for the District of Columbia

Gene Allen,

Petitioner,

v.

The United States Supreme Court Office
of the Clerk,

Respondent.

Civil Action No.

10 1001

MEMORANDUM OPINION

This matter comes before the court on the plaintiff's *pro se* petition for a writ of *habeas corpus* and application to proceed *in forma pauperis*. The Court will grant the application to proceed *in forma pauperis* and will dismiss the petition for lack of jurisdiction.

Plaintiff is an inmate in the Lovelock Correctional Center, in Lovelock, Nevada, serving a sentence imposed by a Nevada state court. *See* Compl. at 1 & Ex. H. He filed this *habeas* petition, captioned as one filed under 28 U.S.C. § 2244, but construed as one under § 2254, after the Clerk of the United States Supreme Court refused to accept his petition for a writ of *certiorari* without the docketing fee. *Id.* at 3. He appears to allege that this refusal violates his criminal rights, and he also appears to challenge the validity of his state conviction. *Id.* at 5-7.

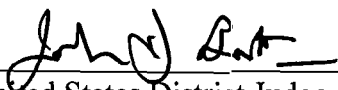
Federal court review of state convictions is available under 28 U.S.C. § 2254 but only after the exhaustion of available state remedies. *See* 28 U.S.C. § 2254(b)(1). Thereafter, "an application for a writ of habeas corpus [] made by a person in custody under the judgment and sentence of a State court . . . may be filed in the district court for the district wherein such person

is in custody or in the district court for the district within which the State court was held which convicted and sentenced [petitioner] and each of such district courts shall have concurrent jurisdiction to entertain the application.” 28 U.S.C. § 2241(d). To the extent that petitioner has exhausted his state remedies, his federal recourse lies in the United States District Court for the District of Nevada.

A separate final order accompanies this memorandum opinion.

Date:

June 4, 2000


United States District Judge