

FILED

OCT 25 2013

**Clerk, U.S. District & Bankruptcy
Courts for the District of Columbia**

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

Guillermo Somarriba Gonzalez,)
)
Petitioner,)
)
v.)
)
)
Stacey Stone,)
)
)
Respondent.)

Civil Action No. **13-1647**

MEMORANDUM OPINION

Petitioner, proceeding *pro se*, has submitted an application for a writ of *habeas corpus* under 28 U.S.C. § 2254 and an application to proceed *in forma pauperis*. For the following reasons, the Court will grant the *in forma pauperis* application and will dismiss the case without prejudice and with leave to reopen.

Petitioner claims that he received ineffective assistance of counsel on direct appeal from his conviction in the Superior Court of the District of Columbia. At the conclusion of his procedural statement, petitioner states that on April 15, 2013, he filed a motion in the District of Columbia Court of Appeals (“DCCA”) to recall the mandate, Pet. at 2, but he does not state that the DCCA has ruled on his motion. The exhaustion of available state remedies is a prerequisite to obtaining the requested habeas relief. See 28 U.S.C. § 2254(b)(1); *Williams v. Martinez*, 586 F.3d 995, 999 (D.C. Cir. 2009) (noting that “we clarified that after ‘a cogent ruling from the D.C. Court of Appeals concerning local relief, if any . . . the District Court will be in a position to rule intelligently on [petitioner’s] federal petition for habeas corpus.’”) (quoting *Streater v. Jackson*, 691 F.2d 1026, 1028 (D.C. Cir. 1982)). Since this action appears to be lodged prematurely, it will be dismissed without prejudice to petitioner’s moving to reopen the case after the DCCA has

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ruled on his motion to recall the mandate. A separate Order accompanies this Memorandum Opinion.

A handwritten signature in black ink, appearing to read 'K. L. ...', is written over a horizontal line. Below the line, the text 'United States District Judge' is printed in a serif font.

United States District Judge

Date: October 8, 2013