

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WISCONSIN

REINALDO A. AROCHO,

Petitioner,

ORDER

v.

06-C-410-S

RICARDO MARTINEZ,

Respondent.

Petitioner filed a petition for a writ of habeas corpus under 28 U.S.C. § 2241. He requests leave to proceed in forma pauperis.

From an examination of the affidavit of indigency that petitioner has submitted the Court finds that he is unable to prepay the costs and fees of commencing this action. Accordingly, petitioner's request to proceed in forma pauperis will be granted.

Petitioner alleges that he is incarcerated at the Federal Correctional Institution, Oxford, Wisconsin. He is challenging his sentence imposed by the United States District Court for the Northern District of Indiana. Petitioner's remedy lies under 28 U.S.C. § 2255 which states as follows:

An application for a writ of habeas corpus on behalf of a prisoner who is authorized to apply for relief pursuant to this section, shall not be entertained if it appears that the applicant has failed to apply for relief by motion to the court which has sentenced him, or that such court denied him relief, unless it also appears that the remedy by motion is inadequate or ineffective to test the legality of his detention.

Petitioner has not alleged that he filed a 28 U.S.C. § 2255 motion in the sentencing court. Accordingly, petitioner's petition for a writ of habeas corpus under 28 U.S.C. § 2241 must be dismissed.

Petitioner is advised that in any future proceedings in this matter he must offer argument not cumulative of that already provided to undermine this Court's conclusion that his claim must be dismissed. See Newlin v. Helman, 123 F.3d 429, 433 (7th Cir. 1997).

ORDER

IT IS ORDERED that petitioner's petition for a writ of habeas corpus is DISMISSED without prejudice.

Entered this 1st day of August, 2006.

BY THE COURT:

S/

JOHN C. SHABAZ
District Judge