

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

**WO**

MDR

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF ARIZONA**

Calvin Kuykendoll,  
Petitioner,  
vs.  
Dennis Smith,  
Respondent.

No. CV 11-1564-PHX-GMS (JRI)

**ORDER**

Petitioner Calvin Kuykendoll, who is confined in the Federal Correctional Institution-Phoenix in Phoenix, Arizona, has filed a *pro se* Petition Under 28 U.S.C. § 2241 for a Writ of Habeas Corpus by a Person in Federal Custody (Doc. 1) and has paid the filing fee. The Court will call for an answer to the Petition.

**I. Petition**

In his Petition, Petitioner names Dennis Smith as the Respondent. Petitioner claims that he was denied a fair and impartial disciplinary officer, in violation of his due process rights, because the disciplinary hearing officer was actively involved in investigating and writing the incident report that lead to Petitioner losing 54 days of good time credits. Petitioner also challenges “the sufficiency of the evidence used to find him guilty of [the disciplinary infractions], and the procedural requirements used[,] and [the] denial of his constitutional right to have staff representation available to assist him.” Petitioner seeks to

1 have his good time credits restored and the incident report “thrown out and removed from  
2 [his] central file.”

3 Petitioner asserts that he has presented this issue to the Office of General Counsel.  
4 The Court will require Respondent to answer the Petition.

5 **II. Warnings**

6 **A. Address Changes**

7 Petitioner must file and serve a notice of a change of address in accordance with Rule  
8 83.3(d) of the Local Rules of Civil Procedure. Petitioner must not include a motion for other  
9 relief with a notice of change of address. Failure to comply may result in dismissal of this  
10 action.

11 **B. Copies**

12 Petitioner must serve Respondent, or counsel if an appearance has been entered, a  
13 copy of every document that he files. Fed. R. Civ. P. 5(a). Each filing must include a  
14 certificate stating that a copy of the filing was served. Fed. R. Civ. P. 5(d). Also, Petitioner  
15 must submit an additional copy of every filing for use by the Court. LRCiv 5.4. Failure to  
16 comply may result in the filing being stricken without further notice to Petitioner.

17 **C. Possible Dismissal**

18 If Petitioner fails to timely comply with every provision of this Order, including these  
19 warnings, the Court may dismiss this action without further notice. See Ferdik v. Bonzelet,  
20 963 F.2d 1258, 1260-61 (9th Cir. 1992) (a district court may dismiss an action for failure to  
21 comply with any order of the Court).

22 **IT IS ORDERED:**

23 (1) The Clerk of Court must serve a copy of the Summons, the Petition (Doc. 1),  
24 and this Order upon the United States Attorney for the District of Arizona by certified mail  
25 addressed to the civil process clerk at the office of the United States Attorney pursuant to  
26 Rule 4(i)(1)(A) of the Federal Rules of Civil Procedure. The Clerk of Court must also send  
27 by certified mail a copy of the Summons, the Petition, and this Order to the United States  
28

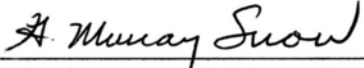
1 Attorney General pursuant to Rule 4(i)(1)(B) **and** to Respondent pursuant to Rule 4(i)(2) of  
2 the Federal Rules of Civil Procedure.

3 (2) Respondent Dennis Smith must answer the Petition within 20 days of the date  
4 of service. Respondent shall not file a dispositive motion in place of an answer without first  
5 showing cause as to why an answer is inadequate.

6 (3) Petitioner may file a reply within 30 days from the date of service of the  
7 answer.

8 (4) This matter is referred to Magistrate Judge Jay R. Irwin pursuant to Rules 72.1  
9 and 72.2 of the Local Rules of Civil Procedure for further proceedings and a report and  
10 recommendation.

11 DATED this 12th day of August, 2011.

12  
13   
14 \_\_\_\_\_  
15 G. Murray Snow  
16 United States District Judge  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28