

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLORADO

Civil Action No. 09-cv-01230-BNB

FRANCISCO TORRES-VILLA,

Applicant,

v.

RON WILEY, Warden, Federal Prison Camp, Florence,

Respondent.

**FILED**  
UNITED STATES DISTRICT COURT  
DENVER, COLORADO

JUN -9 2009

GREGORY C. LANGHAM  
CLERK

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ORDER TO FILE PRELIMINARY RESPONSE

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Applicant, Francisco Torres-Villa, is in the custody of the United States Bureau of Prisons (BOP) at the Federal Prison Camp in Florence, Colorado. Mr. Torres-Villa initiated this action by filing a *pro se* Application for a Writ of Habeas Corpus Pursuant to 28 U.S.C. § 2241.

As part of the preliminary consideration of the Application for a Writ of Habeas Corpus Pursuant to 28 U.S.C. § 2241 in this case, the Court has determined that a limited Preliminary Response is appropriate. Respondent is directed pursuant to *Redmon v. Wiley*, 550 F. Supp. 2d 1275 (D. Colo. 2008), and Rule 4 of the Rules Governing Section 2254 Cases in the United States District Courts, to file a Preliminary Response limited to addressing the affirmative defense of exhaustion of administrative remedies. If Respondent does not intend to raise this affirmative defense, Respondent must notify the Court of that decision in the Preliminary Response. Respondent may not file a dispositive motion as a Preliminary Response, or an Answer, or otherwise address the merits of the claims in response to this Order.

In support of the Preliminary Response, Respondent should attach as exhibits copies of any administrative grievances Mr. Torres-Villa has filed raising the issues asserted in the Application, as well as any responses to those grievances. Mr. Torres-Villa may reply to the Preliminary Response and provide any information that might be relevant to his efforts to exhaust administrative remedies. Accordingly, it is

ORDERED that **within twenty days from the date of this Order** Respondent shall file a Preliminary Response that complies with this Order. It is

FURTHER ORDERED that **within twenty days of the filing of the Preliminary Response** Mr. Torres-Villa may file a Reply, if he desires. It is

FURTHER ORDERED that if Respondent does not intend to raise the affirmative defense of exhaustion of administrative remedies, Respondent must notify the Court of that decision in the Preliminary Response.

DATED June 9, 2009, at Denver, Colorado.

BY THE COURT:

s/ Boyd N. Boland  
United States Magistrate Judge

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLORADO

**CERTIFICATE OF MAILING**

Civil Action No. 09-cv-01230-BNB

Francisco Torres-Villa  
Reg No. 26633-208  
FPC - Florence  
PO Box 5000  
Florence, CO 81226

Ron Wiley, Warden  
c/o Christopher B. Synsvoll  
Attorney Advisor

**DELIVERED ELECTRONICALLY**

United States Attorney General - **CERTIFIED**  
Room 5111, Main Justice Bldg.  
10<sup>th</sup> and Constitution, N.W.  
Washington, D.C. 20530

United States Attorney  
District of Colorado

**DELIVERED ELECTRONICALLY**

I hereby certify that I have mailed a copy of the ORDER to the above-named individuals, and the following forms to Chris Synsvoll for service of process on Ron Wiley; to The United States Attorney General; and to the United States Attorney's Office: APPLICATION FOR WRIT OF HABEAS CORPUS FILED 5/28/09 on 6/9/09.

GREGORY C. LANGHAM, CLERK

By: 

Deputy Clerk