

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLORADO

Civil Action No. 09-cv-01326-BNB

MINOR MICHAEL STILL,

Applicant,

v.

MARY HERNDON, Administrative Services, U.S. Marshal, Colorado,  
KEN DEAL, Deputy United States Marshal, Colorado, and  
HARLEY LAPPIN, Director, Federal Bureau of Prisons,

Respondents.

**FILED**  
UNITED STATES DISTRICT COURT  
DENVER, COLORADO  
JUL -1 2009  
GREGORY C. LANGHAM  
CLERK

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ORDER TO FILE PRELIMINARY RESPONSE

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As part of the preliminary consideration of the Application for a Writ of Habeas Corpus Pursuant to 28 U.S.C. § 2241 filed on June 8, 2009, in this case and pursuant to **Redmon v. Wiley**, 550 F. Supp. 2d 1275 (D. Colo. 2008), the Court has determined that a limited Preliminary Response is appropriate. Respondents are directed pursuant to 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 Respondents do not intend to raise this affirmative defense, Respondents must notify the Court of that decision in the Preliminary Response. Respondents 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, Respondents should attach as exhibits copies of any administrative grievances Applicant has filed raising the issues asserted

in the Application, as well as any responses to those grievances. Applicant 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 (20) days from the date of this Order**

Respondents shall file a Preliminary Response that complies with this Order. It is

FURTHER ORDERED that **within twenty (20) days of the filing of the**

**Preliminary Response** Applicant may file a Reply, if he desires. It is

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

DATED at Denver, Colorado, this 30<sup>th</sup> day of June, 2009.

BY THE COURT:

*s/Craig B. Shaffer*

Craig B. Shaffer

United States Magistrate Judge

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLORADO

**CERTIFICATE OF MAILING**

Civil Action No. 09-cv-01326-BNB

Minor Michael Still  
Prisoner No. 53027  
Sterling Correctional Facility  
PO Box 6000  
Sterling, CO 80751

Mary Herndon – **CERTIFIED**  
United States Marshal Service  
901 19<sup>th</sup> Street, Room 300  
Denver, CO 80294

Ken Deal – **CERTIFIED**  
United States Marshal Service  
901 19<sup>th</sup> Street, Room 300  
Denver, CO 80294

Harley G. Lappin, Director- **CERTIFIED**  
Federal Bureau of Prisons  
320 First Street, N.W.  
Washington, D.C. 20534

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 Mary Herndon; Ken Deal; Harley Lappin; The United States Attorney General; and to the United States Attorney's Office: APPLICATION FOR WRIT OF HABEAS CORPUS FILED 6/08/09 on 7/1/09

GREGORY C. LANGHAM, CLERK

By: 

Deputy Clerk