
IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO

Civil Action No. 09-cv-01500-BNB

ANTHONY M. SANDOVAL,

Applicant,

v.

JUDGE BROOKE JACKSON, Jefferson County,

Respondent.

FILED
UNITED STATES DISTRICT COURT
DENVER, COLORADO

SEP 03 2009

GREGORY C. LANGHAM
CLERK

ORDER OF DISMISSAL

Applicant, Anthony M. Sandoval, is a prisoner in the custody of the Colorado Department of Corrections who currently is incarcerated at the Sterling, Colorado, correctional facility. He attempted to initiate this action by submitting to the Court *pro se* a Motion to Vacate, Set Aside, or Correction Sentence Pursuant to 28 U.S.C. § 2255 and a document titled "Motion 28 U.S.C. 2255 To Correct Sentence."

In an order filed on June 26, 2009, Magistrate Judge Boyd N. Boland ordered Mr. Sandoval to cure certain designated deficiencies in this case within thirty days. Specifically, Mr. Sandoval was directed to submit on the proper, Court-approved forms a Prisoner's Motion and Affidavit for Leave to Proceed Pursuant to 28 U.S.C. § 1915 in a Habeas Corpus Action and an Application for Writ of Habeas Corpus Pursuant to 28 U.S.C. § 2254. He also was directed to submit a certificate showing the current balance in his prison account.

On July 13, 2009, Mr. Sandoval submitted a Prisoner's Motion and Affidavit for Leave to Proceed Pursuant to 28 U.S.C. § 1915 in a Habeas Corpus Action together with a certificate showing the current balance in his prison account. He also submitted an Application for Writ of Habeas Corpus Pursuant to 28 U.S.C. § 2241. On July 16, 2009, Magistrate Judge Boland entered a minute order noting that Mr. Sandoval failed to name the proper Respondent on his habeas corpus application and that the only proper Respondent in a habeas corpus action is the Applicant's custodian. The July 16 minute order directed the clerk of the Court to mail to Mr. Sandoval a blank habeas corpus application so that he could submit an amended application that named the proper Respondent if he wished to pursue his claims.

Mr. Sandoval has failed within the time allowed to cure the designated deficiency as directed or otherwise to communicate with the Court in any way. The June 26, 2009, order warned Mr. Sandoval that if he failed to cure all the designated deficiencies within the time allowed, the action would be dismissed without further notice. The July 16, 2009, minute order provided Mr. Sandoval with an additional thirty days in which to submit an amended application that named the proper Respondent. Because he failed to do so, the application will be denied and the action dismissed for Mr. Sandoval's failure to cure all the designated deficiencies within the time allowed. Accordingly, it is

ORDERED that the habeas corpus application is denied and the action dismissed without prejudice for failure to cure and for failure to prosecute. It is

FURTHER ORDERED that the pending motions are denied as moot.

DATED at Denver, Colorado, this 2 day of Sept., 2009.

BY THE COURT:



ZITA L. WEINSHIENK, Senior Judge
United States District Court

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO

CERTIFICATE OF MAILING

Civil Action No. 09-cv-01500-BNB

Anthony Michael Sandoval
Prisoner No. 135001
Sterling Correctional Facility
PO Box 6000
Sterling, CO 80751

I hereby certify that I have mailed a copy of the **ORDER AND JUDGMENT** to the
above-named individuals on 9/3/09

GREGORY C. LANGHAM, CLERK

By: 

Deputy Clerk