

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLORADO

Civil Action No. 09-cv-01594-BNB

CARLOS J. PEREZ,

Applicant,

v.

BUREAU OF IMMIGRATION AND CUSTOMS ENFORCEMENT,

Respondent.

FILED  
UNITED STATES DISTRICT COURT  
DENVER, COLORADO

AUG 19 2009

GREGORY C. LANGHAM  
CLERK

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ORDER OF DISMISSAL

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Applicant Carlos J. Perez is in the custody of the Colorado Department of Corrections and currently is incarcerated at the Colorado Territorial Correctional Facility in Cañon City, Colorado. Mr. Perez initiated this action by filing a *pro se* pleading titled, "Motion for Disposition of Defective Detainer Pursuant to C.R.S. § 16-14-101, U.M.D.A. or Request for Trial C.R.S. § 16-14-104." In an order entered on July 7, 2009, Magistrate Judge Boyd N. Boland directed the Clerk of the Court to commence a civil action and instructed Mr. Perez to cure certain deficiencies if he wished to pursue his claims.

Specifically, Magistrate Judge Boland ordered Mr. Perez to file his claims on a Court-approved form used in filing 28 U.S.C. § 2241 actions. Magistrate Judge Boland also directed Mr. Perez either to pay the filing fee or to file a Prisoner's Motion and Affidavit for Leave to Proceed Pursuant to 28 U.S.C. § 1915 in a Habeas Corpus Action that included a certified statement showing the current balance in his prison account.

Mr. Perez was warned that the action would be dismissed without further notice if he failed to cure the deficiencies within thirty days.

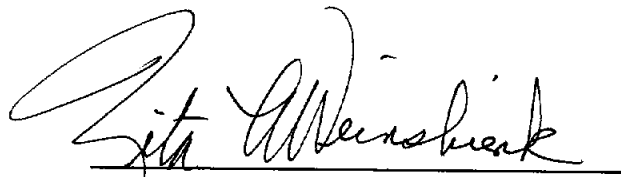
On August 6, 2009, Mr. Perez filed the proper Court-approved form used in filing a request to proceed pursuant to 28 U.S.C. § 1915 and the proper form used in raising 28 U.S.C. § 2241 claims. The § 1915 Motion and Affidavit form, however, is deficient because the account statement Mr. Perez attached is not certified by either the warden or an appropriate officer at the facility where he is incarcerated, as required by Rule 3 of the Rules Governing Section 2254 Cases in the United States District Courts, and as he was directed to do on Page Two of the § 1915 form.

Mr. Perez was instructed in the Order to Cure Deficiencies that he must provide a certified statement showing the current balance in his inmate account. Furthermore, Page Two of the 28 U.S.C. § 1915 Prisoner's Motion and Affidavit form instructs inmates that they must attach a certificate from the warden or other officer stating how much money they have in their inmate account. Therefore, the action will be dismissed without prejudice for failure to cure all noted deficiencies. Accordingly, it is

ORDERED that the Application is denied and the action is dismissed without prejudice for failure to cure all deficiencies.

DATED at Denver, Colorado, this 19 day of Aug, 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-01594-BNB

Carlos J. Perez  
Reg No. 66436  
Colorado Territorial Corr. Facility  
P.O. Box 1010 - Unit 1  
Cañon City, CO 81215-1010

I hereby certify that I have mailed a copy of the **ORDER AND JUDGMENT** to the above-named individuals on 8/19/09

GREGORY C. LANGHAM, CLERK

By: 

Deputy Clerk