

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO

Civil Action No. 09-cv-02514-BNB

GARY DEWILLIAMS,

Applicant,

v.

ERIC HOLDER, United States Attorney General, and
EDWARD REILLY, Chairman U.S. Parole Commission,

Respondents.

FILED
UNITED STATES DISTRICT COURT
DENVER, COLORADO

OCT 30 2009

GREGORY C. LANGHAM
CLERK

ORDER TO FILE PRELIMINARY RESPONSE

Applicant, Gary DeWilliams, is a prisoner in the custody of the United States Bureau of Prisons (BOP) who currently is incarcerated at the Federal Correctional Institution in Littleton, Colorado. He filed *pro se* an 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 filed on October 26, 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 October 30, 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-02514-BNB

Gary DeWilliams
Reg No. 20666-013
FCI - Englewood
9595 W. Quincy Avenue
Littleton, CO 80123

Edward Reilly, Chairman U.S. Parole Commission - **CERTIFIED**
5550 Friendship Boulevard
Chevy Chase, MD 20815-7286

Eric Holder, United States Attorney General - **CERTIFIED**
Room 5111, Main Justice Bldg.
10th 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 Edward Reilly, Chairman U.S. Parole Commission; and to Eric Holder, United States Attorney General; and to the United States Attorney's Office: APPLICATION FOR WRIT OF HABEAS CORPUS FILED 10/26/09 on ~~10/26/09~~.

GREGORY C. LANGHAM, CLERK

By: 

Deputy Clerk