

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO

Civil Action No. 10-cv-00424-BNB

MUHAMMAD M. ABDULLAH-AL-STEVE LAMONT-EL,

Applicant,

v.

THE PEOPLE OF THE STATE OF COLORADO,
CITY AND COUNTY OF DENVER,
MANAGER OF SAFETY,
EX-OFFICIO SHERIFF OF THE CITY AND COUNTY OF DENVER OR HIS DULY
AUTHORIZED REPRESENTATIVE,

Respondents.

FILED
UNITED STATES DISTRICT COURT
DENVER, COLORADO

APR 16 2010

GREGORY C. LANGHAM
CLERK

ORDER TO CURE DEFICIENCY

Applicant is confined at the Denver County Jail in Denver, Colorado. Applicant initiated this action by filing *pro se* a document titled "Petition to the Court" in which he appeared to be seeking release from custody. Therefore, in an order filed on February 25, 2010, the court required Applicant to cure certain deficiencies if he wished to pursue his claims. One of the deficiencies identified was Applicant's failure to file an application for a writ of habeas corpus on the proper form. On March 11, 2010, in response to the court's February 25 order, Applicant filed his application for a writ of habeas corpus on the proper form. On March 17, 2010, however, Applicant filed an amended habeas corpus application that is not on the court-approved form. Applicant is required by the court's local rules to use the court-approved form, *see* D.C.COLO.LCivR 8.2A., and he will be directed to cure this deficiency if he wishes to pursue his claims here.

The court also notes that the various pleadings Applicant has filed in this action do not provide a clear and concise statement of his claims. "The essence of habeas corpus is an attack by a person in custody upon the legality of that custody, and . . . the traditional function of the writ is to secure release from illegal custody." **See Preiser v. Rodriguez**, 411 U.S. 475, 484 (1973). Although Applicant apparently seeks to be released from custody, a form of relief that may be appropriate in a habeas corpus action, it is not clear why he believes he is entitled to be released or how his federal constitutional rights allegedly were violated. Applicant is advised that he must identify clearly the specific constitutional claims he is asserting and must allege specific facts in support of those claims. Naked allegations of constitutional violations are not cognizable in a habeas corpus action. **See Ruark v. Gunter**, 958 F.2d 318, 319 (10th Cir. 1992) (per curiam).

Finally, Applicant also has filed on March 17, 2010, a motion seeking leave to proceed **in forma pauperis** pursuant to 28 U.S.C. § 1915 and a motion to amend the habeas corpus application. The **in forma pauperis** motion will be denied as moot because Applicant has paid the filing fee. The motion to amend also will be denied as moot and Applicant should include all of his claims in the amended pleading he is directed to file. Accordingly, it is

ORDERED that Applicant cure the deficiency identified in this order **within thirty (30) days from the date of this order**. It is

FURTHER ORDERED that the clerk of the court mail to Applicant, together with a copy of this order, two copies of the following form: Application for a Writ of Habeas Corpus Pursuant to 28 U.S.C. § 2241. It is

FURTHER ORDERED that if Applicant fails within the time allowed to cure the deficiency identified in this order and file an amended pleading on the proper form that identifies clearly the constitutional claims he is asserting in this action, the action will be dismissed without further notice. It is

FURTHER ORDERED that the motion seeking leave to proceed *in forma pauperis* pursuant to 28 U.S.C. § 1915 and the motion to amend, both of which were filed on March 17, 2010, are denied as moot.

DATED April 16, 2010, 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. 10-cv-00424-BNB

Muhammad M. Abdullah-Al-Steven-Lamont-El
Prisoner No. 0000545514
Denver County Jail
P.O. Box 1108
Denver, CO 80201

I hereby certify that I have mailed a copy of the **ORDER and two copies of the Application for a Writ of Habeas Corpus Pursuant to 28 U.S.C. § 2241** to the above-named individuals on 4/16/10

GREGORY C. LANGHAM, CLERK

By: 

Deputy Clerk