

**FILED**  
UNITED STATES DISTRICT COURT  
DENVER, COLORADO

JUN 16 2011

GREGORY C. LANGHAM  
CLERK

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IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLORADO

Civil Action No. 11-cv-00556-BNB

CAMDEN P. FORTNEY, III,

Applicant,

v.

WARDEN CHAPMEN,

Respondent.

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ORDER OF DISMISSAL

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Applicant, Camden P. Fortney, III, is a prisoner in the custody of the Colorado Department of Corrections at the Kit Carson Correctional Facility in Burlington, Colorado. Mr. Fortney initiated this action by filing *pro se* in the United States District Court for the District of Columbia an application for a writ of habeas corpus pursuant to 28 U.S.C. § 2241. In an order filed on February 8, 2011, the District of Columbia transferred the action to this court. On April 4, 2011, Magistrate Judge Boyd N. Boland ordered Mr. Fortney to file an amended application that clarifies the claims he is asserting in this action. On May 3, 2011, Mr. Fortney filed an amended application for a writ of habeas corpus pursuant to 28 U.S.C. § 2241.

On May 6, 2011, Magistrate Judge Boland ordered Mr. Fortney to file a second amended habeas corpus application. Magistrate Judge Boland specifically determined that two of Mr. Fortney's three claims in the amended application are not habeas corpus claims. Magistrate Judge Boland also determined that, with respect to Mr. Fortney's

remaining habeas corpus claim, he failed to allege specific facts in support of the claim and the claim properly is asserted pursuant to 28 U.S.C. § 2254 because Mr. Fortney is challenging the validity of a state court conviction in that claim. Therefore, Magistrate Judge Boland directed Mr. Fortney to file a second amended application and he directed the clerk of the Court to provide Mr. Fortney with the proper form to file an application for a writ of habeas corpus pursuant to § 2254. Mr. Fortney was warned that the action would be dismissed without further notice if he failed to file a second amended application as directed within thirty days.

Mr. Fortney has failed within the time allowed to file a second amended application as directed and he has failed to respond in any way to Magistrate Judge Boland's May 6 order. Therefore, the action will be dismissed without prejudice for failure to comply with a court order. Accordingly, it is

ORDERED that the habeas corpus application and the amended application are denied and the action is dismissed without prejudice pursuant to Rule 41(b) of the Federal Rules of Civil Procedure because Plaintiff failed to comply with a court order. It is

FURTHER ORDERED that no certificate of appealability will issue because Applicant has not made a substantial showing of the denial of a constitutional right.

DATED at Denver, Colorado, this 16<sup>th</sup> day of June, 2011.

BY THE COURT:

s/Lewis T. Babcock  
LEWIS T. BABCOCK, Senior Judge  
United States District Court

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLORADO

**CERTIFICATE OF MAILING**

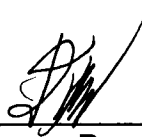
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Camden P. Fortney III  
Prisoner No. 150658  
Kit Carson Corr. Center  
PO Box 2000  
Burlington, CO 80807

I hereby certify that I have mailed a copy of the **ORDER and JUDGMENT** to the above-named individuals on June 16, 2011.

GREGORY C. LANGHAM, CLERK

By: \_\_\_\_\_



Deputy Clerk