

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO

FILED
UNITED STATES DISTRICT COURT
DENVER, COLORADO

AUG 15 2011

GREGORY C. LANGHAM
CLERK

Civil Action No. 11-cv-01402-BNB

QUINN MCKENZIE JEBE,

Applicant,

v.

TOM CLEMENTS, Executive Director of the Colorado Department of Corrections, and
EMILY BOND, Warden of the Cheyenne Mountain Re-Entry Center,

Respondents.

ORDER TO FILE PRELIMINARY RESPONSE

Applicant, Quinn McKenzie Jebe, is a prisoner in the custody of the Colorado Department of Corrections who currently is incarcerated at the Cheyenne Mountain Re-Entry Center in Colorado Springs, Colorado. On August 10, 2011, he filed *pro se* an Amended Application for a Writ of Habeas Corpus Pursuant to 28 U.S.C. § 2241. He has been granted leave to proceed pursuant to 28 U.S.C. § 1915.

As part of the preliminary consideration of the Amended Application for a Writ of Habeas Corpus Pursuant to 28 U.S.C. § 2241 in this case and pursuant to *Keck v. Hartley*, 550 F. Supp. 2d 1272 (D. Colo. Apr. 17, 2008), the Court has determined that a limited Preliminary Response is appropriate. Respondent is 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 defenses of timeliness under 28 U.S.C. § 2244(d) and/or exhaustion of state court remedies under *Montez v. McKinna*, 208 F.3d 862, 866 (10th Cir. 2000). If Respondent does not intend to raise

either of these affirmative defenses, Respondent must notify the Court of that decision in the Preliminary Response. Respondent 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, Respondent should attach as exhibits all relevant portions of the state court record, including but not limited to copies of all documents demonstrating whether this action is filed in a timely manner and/or whether Applicant has exhausted state court remedies.

Applicant may reply to the Preliminary Response and provide any information that might be relevant to the one-year limitation period under 28 U.S.C. § 2244(d) and/or the exhaustion of state court remedies. Applicant also should include information relevant to equitable tolling, specifically as to whether he has pursued his claims diligently and whether some extraordinary circumstance prevented him from filing a timely 28 U.S.C. § 2241 action in this Court. Accordingly, it is

ORDERED that within twenty-one (21) days from the date of this Order Respondent shall file a Preliminary Response that complies with this Order. It is

FURTHER ORDERED that within twenty-one (21) days of the filing of the Preliminary Response Applicant may file a Reply, if he desires. It is

FURTHER ORDERED that if Respondent does not intend to raise either of the affirmative defenses of timeliness or exhaustion of state court remedies, Respondent must notify the Court of that decision in the Preliminary Response. It is

FURTHER ORDERED that the motions titled "Motion to Request Strict

Compliance With Statutory Time Limits in a Habeas Corpus Proceedings Pursuant to 28 U.S.C. § 2241, et seq.” (ECF No. 7) and “Motion to Request Status of the Proceedings” (ECF No. 10) are denied as unnecessary.

DATED August 15, 2011, 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. 11-cv-01402-BNB

Quinn McKenzie Jebe
Prisoner No. 132709
Cheyenne Mountain Re-Entry Center
2925 E Las Vegas St
Colorado Springs, CO 80906

Emily Bond, Warden - **CERTIFIED**
Cheyenne Mountain Re-Entry Center
2925 E Las Vegas St
Colorado Springs, CO 80906

Tom Clements
c/o Keith Nordell
Colorado Department of Corrections
Office of Legal Affairs
DELIVERED ELECTRONICALLY

John Suthers, Attorney General
Office of the Attorney General
DELIVERED ELECTRONICALLY
COURTESY COPY

James Quinn, Asst. Attorney General
Office of the Attorney General
DELIVERED ELECTRONICALLY
COURTESY COPY

I hereby certify that I have mailed a copy of the ORDER to the above-named individuals, and the following forms to Emily Bond and to Keith Nordell for service of process on Tom Clements: APPLICATION FOR WRIT OF HABEAS CORPUS FILED 08/10/11 on August 15, 2011.

GREGORY C. LANGHAM, CLERK

By: _____



Deputy Clerk

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Total Postage & Fees		11-cv-1402
Sent To Emily Bond, Warden		
Street, Ap or PO Box Cheyenne Mountain Re-Entry		
Center		
City, State 2925 E Las Vegas St		
Colorado Springs, CO 80906		

PS Form 3849, June 2006

See back for instructions