

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLORADO

Civil Action No. 11-cv-02009-BNB

DONALD OLOYEA WALLIN, a.k.a. OLOYEA WALLIN,

Applicant,

VINCE EVERETT, Warden of KCCC, and  
COLORADO ATTORNEY GENERAL OFFICE,

Respondents.

**FILED**  
UNITED STATES DISTRICT COURT  
DENVER, COLORADO**OCT 24 2011****GREGORY C. LANGHAM**  
CLERK

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**ORDER OF DISMISSAL**

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Applicant, Donald Oloyea Wallin, a.k.a. Oloyea Wallin, is a prisoner in the custody of the Colorado Department of Corrections at the Four Mile Correctional Facility in Cañon City, Colorado. Mr. Wallin initiated this action by filing a pleading titled "Motion for Stay and Abeyance Habeas Corpus Action Until Completion of the Colorado Appellate Court Review of the Criminal Action." On August 9, 2011, Magistrate Judge Boyd N. Boland entered an order instructing Mr. Wallin to cure a certain deficiency if he wished to pursue his claims. Magistrate Judge Boland specifically ordered Mr. Wallin to file an Application for a Writ of Habeas Corpus Pursuant to 28 U.S.C. § 2254.

On September 9, 2011, Mr. Wallin filed a Motion for Extension of Time to cure the deficiency. Magistrate Judge Boland granted the extension allowing Mr. Wallin thirty days to comply. Mr. Wallin now has failed to cure the deficiency within the time allowed. The Court, therefore, will dismiss the action without prejudice. To the extent that Mr. Wallin is asking this Court to stay the instant action while he exhausts his state court remedies, the Court will deny the request. Accordingly, it is

ORDERED that the Application is denied and the action is dismissed without prejudice pursuant to Fed. R. Civ. P. 41(b) for failure to cure the deficiency. It is

FURTHER ORDERED that Mr. Wallin's request to stay the action while he exhausts his state court remedies, Doc. No. 1, is denied.

DATED at Denver, Colorado, this 24<sup>th</sup> day of October, 2011.

BY THE COURT:

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

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**CERTIFICATE OF MAILING**

Civil Action No. 11-cv-02009-BNB

Oloyea D Wallin  
Prisoner No. 111389  
Four Mile Correctional Center  
PO Box 300  
Cañon City, CO 81215

I hereby certify that I have mailed a copy of the **ORDER and JUDGMENT** to the above-named individuals on October 24, 2011.

GREGORY C. LANGHAM, CLERK

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



Deputy Clerk