

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

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLORADO

AUG 25 2011

GREGORY C. LANGHAM  
CLERK

Civil Action No. 11-cv-02128-BNB

CHRISTOPHER HIJRAH MITCHELL, a.k.a. C. ELIJAH HAKEEM MUHAMMAD, a.k.a.  
CHRISTOPHER MITCHELL,

Applicant,

v.

BLAKE R. DAVIS, Warden,

Respondent.

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ORDER CONSTRUING 28 U.S.C. § 2241 ACTION AS A  
PRISONER COMPLAINT AND DIRECTING  
APPLICANT TO FILE A PRISONER COMPLAINT

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Applicant, Christopher Hijrah Mitchell, is in the custody of the United States Bureau of Prisons (BOP) and currently is incarcerated at the ADX in Florence, Colorado. Mr. Mitchell, acting *pro se*, filed an Application for a Writ of Habeas Corpus Pursuant to 28 U.S.C. § 2241.

The Court has reviewed the Application filed in this action and finds that Mr. Mitchell is asserting civil rights claims rather than habeas corpus claims. Mr. Mitchell complains that he was reclassified to a behavior modification program without due process. He, therefore, is not challenging the execution of his sentence but the conditions of his confinement.

“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). Generally, a federal prisoner’s challenge to his conditions of confinement is cognizable under *Bivens v. Six Unknown Named Agents of Fed. Bureau of Narcotics*, 403 U.S. 388 (1971). See, e.g., *Richards v. Bellmon*, 941 F.2d 1015, 1018 (10<sup>th</sup> Cir. 1991). Accordingly, it is

ORDERED that Mr. Mitchell cure the deficiencies designated above by filing a Prisoner Complaint and either by paying the \$350.00 filing fee or by filing a Prisoner’s Motion and Affidavit for Leave to Proceed Pursuant to 28 U.S.C. § 1915 within thirty days from the date of this Order. It is

FURTHER ORDERED that Mr. Mitchell shall obtain the court-approved Prisoner Complaint form and the Motion and Affidavit for Leave to Proceed Pursuant to 28 U.S.C. § 1915 (with the assistance of his case manager or the facility’s legal assistant), along with the applicable instructions, at [www.cod.uscourts.gov](http://www.cod.uscourts.gov). It is

FURTHER ORDERED that if within the time allowed Mr. Mitchell fails to cure the designated deficiencies the action will be dismissed without prejudice and without further notice.

DATED August 25, 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-02128-BNB

Christopher Hijrah Mitchell  
Reg. No. 02791-088  
USP Florence ADMax  
PO Box 8500  
Florence, CO 81226

I hereby certify that I have mailed a copy of the **ORDER** to the above-named individuals on August 25, 2011.

GREGORY C. LANGHAM, CLERK

By:   
Deputy Clerk