

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO**

Civil Action No. 12-cv-00417-BNB

(The above civil action number must appear on all future papers sent to the court in this action. Failure to include this number may result in a delay in the consideration of your claims.)

EARL J. CROWNHART,

Applicant,

v.

PEOPLE OF THE STATE OF COLORADO, and
JOHN SUTHERS, The Attorney General of the State of Colorado,

Respondents.

ORDER DIRECTING APPLICANT TO CURE DEFICIENCIES

Applicant, Earl J. Crownhart, is a prisoner in the custody of the Colorado Department of Corrections and currently is incarcerated at the Colorado Mental Health Institute in Pueblo, Colorado. Mr. Crownhart has an Application for a Writ of Habeas Corpus Pursuant to 28 U.S.C. § 2254 and a Prisoner's Motion and Affidavit for Leave to Proceed Pursuant to 28 U.S.C. § 1915 in a Habeas Corpus Action.

As part of the Court's review pursuant to D.C.COLO.LCivR 8.2, the Court has determined that the submitted documents are deficient as described in this Order. Mr. Crownhart will be directed to cure the following if he wishes to pursue his claims. Any papers that Mr. Crownhart files in response to this Order must include the civil action number on this Order.

The Court also notes that Mr. Crownhart names The People of the State of Colorado as a Respondent. The law is well-established that the only proper respondent to a habeas corpus action is the habeas applicant's custodian, see 28 U.S.C. § 2242; Rules 2(a) and 1(b), Rules Governing Section 2254 Cases in the United States District Courts; and *Harris v. Champion*, 51 F.3d 901, 906 (10th Cir. 1995). Mr. Crownhart must name in the caption his custodian.

28 U.S.C. § 1915 Motion and Affidavit:

- (1) is not submitted
- (2) is missing affidavit
- (3) is missing certified copy of prisoner's trust fund statement for the 6-month period immediately preceding this filing
- (4) is missing certificate showing current balance in prison account (account statement submitted is not certified)
- (5) is missing required financial information
- (6) is missing an original signature by the prisoner
- (7) is not on proper form (must use the court's current form)
- (8) names in caption do not match names in caption of complaint, petition or habeas application
- (9) An original and a copy have not been received by the court. Only an original has been received.
- (10) other:

Complaint, Petition or Application:

- (11) is not submitted
- (12) is not on proper form (must use the court's current form)
- (13) is missing an original signature by the prisoner
- (14) is missing page nos.
- (15) uses et al. instead of listing all parties in caption
- (16) An original and a copy have not been received by the court. Only an original has been received.
- (17) Sufficient copies to serve each defendant/respondent have not been received by the court.
- (18) names in caption do not match names in text
- (19) other: Only properly named respondent is the custodian where Applicant is held; Handwriting in Application is not legible, Application must be resubmitted and identified with proper case number (12-cv-00518)

Accordingly, it is

ORDERED that the Mr. Crownhart cure the deficiencies designated above **within thirty days from the date of this Order**. Any papers that Mr. Crownhart files in response to this Order must include the civil action number on this Order. It is

FURTHER ORDERED that Mr. Crownhart shall obtain the Court-approved form used in filing a 28 U.S.C. § 2254 action (with the assistance of his case manager or the facility's legal assistant), along with the applicable instructions, at www.cod.uscourts.gov. It is

FURTHER ORDERED that, if the Mr. Crownhart fails to cure the designated deficiencies **within thirty days from the date of this Order**, the action will be dismissed without further notice.

DATED February 29, 2012, at Denver, Colorado.

BY THE COURT:

s/Boyd N. Boland
United States Magistrate Judge