

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

Civil Action No. 12-cv-00552-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.)

KENNETH PAUL CAMPBELL,

Plaintiff,

v.

KIM E. IKELER,

Defendant.

ORDER DIRECTING PLAINTIFF TO CURE DEFICIENCIES

Plaintiff, Kenneth Paul Campbell, is a resident of Monument, Colorado. He initiated this action by filing a *pro se* Application for a Writ of Habeas Corpus pursuant to 28 U.S.C. § 2241. He paid the \$5.00 filing fee 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. Plaintiff will be directed to cure the following if he wishes to pursue his claims. Any papers which the Plaintiff files in response to this order must include the civil action number on this order.

The Court has reviewed the Plaintiff's application and finds that Plaintiff's claims are not properly asserted in a habeas corpus action. "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). Mr. Campbell's claims are not habeas corpus claims because they do not challenge the validity of a state court conviction or the execution of the state court sentence. Therefore, Mr. Campbell will be directed to file his claims on the court-approved Complaint form used by non-prisoners. Mr. Campbell is also directed to identify the jurisdictional basis for his claims.

Further, Mr. Campbell has paid \$5.00 in this action. He is directed that the filing fee in this action is \$350.00. Mr. Campbell must either pay the remaining balance of \$345.00, or he must file a properly notarized motion and affidavit for leave to proceed pursuant to 28 U.S.C. § 1915 on the form used by non-prisoners.

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
- (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: Motion is necessary only if the remainder of the \$345.00 filing fee is not paid in advance

Complaint, Petition or Application:

- (11) is not submitted
- (12) is not on proper form (must use the court's current Complaint 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 _____

Accordingly, it is

ORDERED that the Plaintiff cure the deficiencies designated above **within thirty (30) days from the date of this order**. Any papers which the Plaintiff files in response to this order must include the civil action number on this order. It is

FURTHER ORDERED that the Plaintiff shall obtain the court-approved Complaint and Motion and Affidavit for Leave to Proceed Pursuant to 28 U.S.C.

§ 1915 forms, along with the applicable instructions, at www.cod.uscourts.gov. It is

FURTHER ORDERED that, if the Plaintiff fails to cure the designated deficiencies **within thirty (30) days from the date of this order**, the complaint and the action will be dismissed without further notice. The dismissal shall be without prejudice.

DATED at Denver, Colorado, this 5th day of March, 2012.

BY THE COURT:

s/ Boyd N. Boland
United States Magistrate Judge