

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

Civil Action No. 12-cv-00987-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.)

RUSSELL COOLEY, Applicant, named as Defendant,

Applicant,

v.

UNITED STATES OF AMERICA,

Respondent, named as Plaintiff.

ORDER DIRECTING APPLICANT TO CURE DEFICIENCIES

Applicant, Russell Cooley, submitted *pro se* a Petition for Writ of Habeas Corpus challenging the computation of his federal sentence imposed in *United States v. Cooley*, No. 05-cr-00059-RBJ-1 (D. Colo. Sept. 22, 2005), and used the docket number for his criminal case on the petition. On April 4, 2012, the clerk of the Court filed the petition (ECF No. 57) in his criminal case. On April 13, 2012, the Court entered an order in No. 05-cr-00059-RBJ-1 directing the clerk of the Court to commence a new civil action and file the petition in that action. ECF No. 58. Pursuant to the April 13 order, the Court opened the instant action.

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

number on this order.

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) other: Motion is necessary only if \$5.00 filing fee is not paid in advance.

Complaint, Petition or Application:

- (10) is not submitted
- (11) is not on proper form (must use the court's current form)
- (12) is missing an original signature by the prisoner
- (13) is missing page nos.
- (14) uses et al. instead of listing all parties in caption
- (15) names in caption do not match names in text
- (16) addresses must be provided for all defendants/respondents in "Section A. Parties" of complaint, petition or habeas application
- (17) other: The only proper Respondent in a habeas corpus action is Applicant's current warden, superintendent, jailer or other custodian.

Accordingly, it is

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

FURTHER ORDERED that the Applicant shall obtain the Court-approved Prisoner's Motion and Affidavit for Leave to Proceed Pursuant to 28 U.S.C. § 1915 in a Habeas Corpus Action and Application for a Writ of Habeas Corpus Pursuant to 28 U.S.C. § 2241 forms (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 Applicant fails to cure the designated deficiencies **within thirty (30) days from the date of this order**, the Petition for Writ of Habeas Corpus will be denied and the action dismissed without further notice. The dismissal shall be without prejudice.

DATED April 13, 2012, at Denver, Colorado.

BY THE COURT:

s/ Boyd N. Boland
United States Magistrate Judge