

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLORADO

Civil Action No. 12-cv-00881-BNB

JESUS JOHN HERNANDEZ

Applicant,

v.

JOE STARMAN, Director, Independence House South, and  
UNITED STATES PAROLE COMMISSION,

Respondents.

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ORDER TO FILE PRELIMINARY RESPONSE

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Applicant, Jesus John Hernandez, is in the custody of the Federal Bureau of Prisons and is serving a term of mandatory parole. He has filed an Application for a Writ of Habeas Corpus Pursuant to 28 U.S.C. § 2241. Mr. Hernandez has paid the \$5.00 filing fee.

As part of the preliminary consideration of the Application in this case and pursuant to *Keck v. Hartley*, 550 F. Supp. 2d 1272 (D. Colo. 2008), the Court has determined that a limited Preliminary Response is appropriate. Respondent United States Parole Commission is directed pursuant to Rule 4 of the Rules Governing Section 2254 Cases in the United States District Courts to file a Preliminary Response limited to addressing procedural issues, such as the affirmative defense of exhaustion of administrative remedies. If Respondent does not intend to raise an affirmative defense, Respondent must notify the Court of that decision in the Preliminary Response. Respondent may not file a dispositive motion as a Preliminary Response, or an Answer, or otherwise address the merits of the claims in response to this Order.

In support of the Preliminary Response, Respondent should attach as exhibits all relevant portions of the federal district court and administrative records, including but not limited to copies of all documents demonstrating whether Applicant has exhausted administrative remedies.

Applicant may reply to the Preliminary Response and provide any information that might be relevant to the exhaustion of administrative remedies or other procedural issues raised by Respondent. Accordingly, it is

ORDERED that **within twenty-one days from the date of this Order** Respondent shall file a Preliminary Response that complies with this Order. It is

FURTHER ORDERED that **within twenty-one days of the filing of the Preliminary Response** Applicant may file a Reply, if he desires. It is

FURTHER ORDERED that if Respondent does not intend to raise an affirmative defense, Respondent must notify the Court of that decision in the Preliminary Response.

Dated: April 5, 2012

BY THE COURT:

s/ Boyd N. Boland  
United States Magistrate Judge