

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO

Civil Action No. 12-cv-02324-BNB

KHALIFA IMAM MUHAMMAD ABDULLAH,

Plaintiff,

v.

BERKBIL, Warden,
CHRIS, Captain,
RENGAL, Unit Man.,
BREAM, C.O., and
BLITNER, C.O.,

Defendants.

ORDER CONSTRUING ACTION AS A
PRISONER COMPLAINT AND DIRECTING
PLAINTIFF TO CURE DEFICIENCIES

Plaintiff, Khalifa Imam Muhammad Mustafa Abdullah, is in the custody of the United States Bureau of Prisons (BOP) and currently is incarcerated at ADX in Florence, Colorado. Plaintiff, acting *pro se*, initiated this action by filing a pleading titled, "Heabeas [sic] Corpus U.S.C. 2255 U.S.C. 2241." Although Plaintiff's claims are disjointed and his hand writing is difficult to read, the Court finds Plaintiff is challenging the conditions of his confinement.

Plaintiff's attempt to file this action pursuant to either to 28 U.S.C. § 2255 or 28 U.S.C. § 2241 is improper. "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 (10th Cir. 1991). Accordingly, it is

ORDERED that Plaintiff cure the deficiencies designated above by (1) filing his claims on a Court-approved Prisoner Complaint form and by (2) either paying the \$350.00 filing fee or submitting a Prisoner's Motion and Affidavit for Leave to Proceed Pursuant to 28 U.S.C. § 1915 form within thirty days from the date of this Order. It is

FURTHER ORDERED that Plaintiff shall obtain the Court-approved Prisoner Complaint and Prisoner's Motion and Affidavit for Leave to Proceed Pursuant to 28 U.S.C. § 1915 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 Plaintiff use legible handwriting. It is

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

DATED September 5, 2012 at Denver, Colorado.

BY THE COURT:

s/Boyd N. Boland
United States Magistrate Judge