

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLORADO

Civil Action No. 12-cv-03007-BNB

ALFONSO A. CARILLO,

Applicant,

v.

GARY WILSON, Denver Undersheriff/Warden,

Respondent.

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ORDER TO FILE PRELIMINARY RESPONSE

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Applicant, Alfonso A. Carillo, is detained in the Denver Detention Center in Denver, Colorado pending the resolution of state criminal charges. He has filed an Application for a Writ of Habeas Corpus Pursuant to 28 U.S.C. § 2241 challenging the legality of his detention. Mr. Carillo 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 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 state court 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 state court record, including but not limited to copies of all documents demonstrating whether Applicant has exhausted state court remedies.

Applicant may reply to the Preliminary Response and provide any information that might be relevant to the exhaustion of state court 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: November 27, 2012

BY THE COURT:

s/ Boyd N. Boland  
United States Magistrate Judge