

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

Civil Action No. 13-cv-00028-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.)

JUAN VIANEZ,

Plaintiff,

v.

D. BARKEBILE, Warden,

Defendant.

ORDER DIRECTING PLAINTIFF TO CURE DEFICIENCIES

On January 4, 2013, Plaintiff submitted a Prisoner Complaint, a separate filing titled, "Complaint," a Prisoner's Motion and Affidavit for Leave to Proceed Pursuant to 28 U.S.C. § 1915, a Declaration in Support of Motion to Proceed In Forma Pauperis, a filing titled, "Preliminary Injunction," a Plaintiff's Request for Production of Documents, and a filing titled, "Evidence." As part of the Court's review pursuant to D.C.COLO.LCivR 8.2, the Court has determined that the documents are deficient as described in this Order. Plaintiff will be directed to cure the following if he wishes to pursue any claims in this Court in this action. Any papers that Plaintiff files in response to this Order must include the civil action number on this Order.

The Court also notes that since March 2012 Plaintiff has filed five separate actions, four cases in the United States District Court for the District of Arizona and one case in the United States District Court for the Western District of Washington. See

Vianez v. Pierce County Jail, et al., No. 12-cv-05272-RJB (W.D. Wash. July 17, 2012); *Vianez v. United States Penitentiary, Tucson, et al.*, No. 12-cv-00288-DCB-PSOT (D. Ariz. July 2, 2012); *Vianez v. United States Penitentiary, Tucson, et al.*, No. 12-cv-00324-DCB-PSOT (D. Ariz. June 26, 2012); *Vianez v. United States Penitentiary, Tucson, et al.*, No. 12-cv-00325-DCB-PSOT (D. Ariz. June 19, 2012); *Vianez v. Apker*, No. 12-cv-00366-DCB-PSOT (D. Ariz. May 25, 2012). Each of these cases were dismissed because Plaintiff failed to comply with the court's orders. Plaintiff, however, continued to file inappropriate motions and requests after the cases were dismissed in at least four of the previous actions that he has filed. See *Vianez*, No. 12-cv-05272; *Vianez*, No. 12-cv-00288; *Vianez*, No. 12-cv-00324; *Vianez*, No. 12-cv-00366. Plaintiff is instructed that this Court will not tolerate the filing of inappropriate requests and motions in a case. Plaintiff also is required to comply with this Order if he desires to proceed with this action.

28 U.S.C. § 1915 Motion and Affidavit:

- (1) ___ is not submitted
- (2) ___ is missing affidavit
- (3) X 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) X is missing authorization to calculate and disburse filing fee payments
- (7) ___ is missing an original signature by the prisoner
- (8) X is not on proper form (Must use Court-approved form revised October 1, 2012)
- (9) ___ names in caption do not match names in caption of complaint, petition or habeas application
- (10) ___ other: _____

Complaint, Petition or Application:

- (11) ___ is not submitted
- (12) ___ is not on proper 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) ___ names in caption do not match names in text
- (17) X addresses must be provided for all defendants/respondents in "Section A. Parties" of complaint, petition or habeas application
- (18) X other: Plaintiff has submitted two Complaints. All Claims must be submitted on one Court-approved form

Accordingly, it is

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

FURTHER ORDERED that Plaintiff shall obtain the Court-approved Prisoner Complaint form and Prisoner's Motion and Affidavit for Leave to Proceed Pursuant to 28 U.S.C. § 1915 form (revised 10/1/12) (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 Plaintiff fails to cure the designated deficiencies **within thirty days from the date of this Order**, the action will be dismissed without further notice. It is

FURTHER ORDERED that Plaintiff's request for production of documents, ECF No. 7, is denied as premature.

DATED January 10, 2013, at Denver, Colorado.

BY THE COURT:

s/ Boyd N. Boland
United States Magistrate Judge