

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

Civil Action No. 13-cv-01742-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.)**

CLAUDE McCLAIN,

Applicant,

v.

B. BERKEBILE, Warden, FPC Florence, and  
REGIONAL MEDICAL DIRECTOR, North Central Region, Federal Bureau of Prisons,

Respondents.

---

**ORDER DIRECTING APPLICANT TO CURE DEFICIENCIES**

---

Applicant, a federal prisoner in Colorado, has submitted to the court a Prisoner's Motion and Affidavit for Leave to Proceed Pursuant to 28 U.S.C. § 1915 in a Habeas Corpus Action and an Application for a Writ of Habeas Corpus Pursuant to 28 U.S.C. § 2241 in which he claims that his Eighth Amendment rights have been violated because he is being denied adequate medical treatment. 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. Most importantly, the court notes that Applicant may not pursue his Eighth Amendment claim in a habeas corpus action. Applicant will be directed to cure the following if he wishes to pursue his claim. Any papers that 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
- (5)  is missing required financial information
- (6)  is missing authorization to calculate and disburse filing fee payments
- (7)  is missing an original signature by the prisoner
- (8)  is not on proper form (must use the court's current form for non-habeas corpus actions)
- (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 (must use Prisoner Complaint 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)  addresses must be provided for all defendants/respondents in "Section A. Parties" of complaint, petition or habeas application
- (18)  other: \_\_\_\_\_.

Accordingly, it is

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

FURTHER ORDERED that Applicant shall obtain the court-approved Prisoner's Motion and Affidavit for Leave to Proceed Pursuant to 28 U.S.C. § 1915 and Prisoner Complaint forms (with the assistance of his case manager or the facility's legal assistant), along with the applicable instructions, at [www.cod.uscourts.gov](http://www.cod.uscourts.gov). It is

FURTHER ORDERED that, if Applicant fails to cure the designated deficiencies **within thirty (30) days from the date of this order**, the action will be dismissed without further notice. The dismissal shall be without prejudice.

DATED July 3, 2013, at Denver, Colorado.

BY THE COURT:

s/ Boyd N. Boland  
United States Magistrate Judge