

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO

Civil Action No. 13-cv-01867-BNB

OLOYEA D. WALLIN, a.k.a. DONALD OLOYEA, a.k.a. OLOYEA WALLIN,
Applicant,

v.

MICHAEL MILLER, Warden of Crowley County Correctional Facility,
Respondent.

ORDER TO FILE SUPPLEMENT TO PRELIMINARY RESPONSE

As part of the preliminary consideration of the Application for a Writ of Habeas Corpus Pursuant to 28 U.S.C. § 2241 in this action, the Court ordered Respondent to file a Preliminary Response limited to addressing the affirmative defenses of timeliness under 28 U.S.C. § 2244(d) and/or exhaustion of state court remedies. On September 13, 2013, Respondent filed a Preliminary Response, and on October 22, 2013, Applicant filed a Reply to the Preliminary Response.

Respondent argues in the Preliminary Response that Applicant's incorrect Presentence Investigation Report claim is barred by the one-year limitation period in 28 U.S.C. § 2244(d), and in the alternative unexhausted. Respondent, however, failed to address Claim Two stated on Page Five of the Application. Therefore, Respondent will be directed to file a supplement to the Preliminary Response that addresses the affirmative defenses of timeliness under 28 U.S.C. § 2244(d) and/or exhaustion of state court remedies as each applies to Claim Two. Accordingly, it is

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

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

DATED November 25, 2013, at Denver, Colorado.

BY THE COURT:

s/ Boyd N. Boland
United States Magistrate Judge