

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLORADO

Civil Action No. 13-cv-02001-BNB

ERIC ADAMS,

Applicant,

v.

D. BERKEBILE, Warden,

Respondent.

---

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

---

Applicant Eric Adams is in the custody of the United States Bureau of Prisons (BOP) and currently is incarcerated at ADX in Florence, Colorado. Mr. Adams, acting *pro se*, initiated this action by filing an Application for a Writ of Habeas Corpus Pursuant to 28 U.S.C. § 2241 and paying the \$5.00 filing fee. Mr. Adams is challenging the conditions of his confinement.

Mr. Adams's attempt to file this action pursuant to 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 (10<sup>th</sup> Cir. 1991).

The Court also reminds Mr. Adams that he is subject to filing restrictions under 28 U.S.C. § 1915(g). See *Adams v. Davis, et al.*, No. 11-cv-01521-LTB at ECF No. 8 (D. Colo. Oct. 13, 2011), *appeal dismissed*, No. 11-1431 (10th Cir. Nov. 7, 2011) (dismissed for lack of prosecution). Accordingly, it is

ORDERED that Mr. Adams cure the deficiencies designated above by (1) filing his claims on a Court-approved Prisoner Complaint form and by (2) either paying the remaining balance of the \$400.00 filing fee in full 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 Mr. Adams 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 (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 Mr. Adams fails to cure the designated deficiencies within the time allowed the action will be dismissed without further notice.

DATED July 31, 2013 at Denver, Colorado.

BY THE COURT:

s/Boyd N. Boland  
United States Magistrate Judge