

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

Civil Action No. 13-cv-03129-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.)

LORETTA SANTISTEVAN,

Plaintiff,

v.

TRINIDAD POLICE DEPARTMENT - CHARLES GOLIROSO, Chief of Police,
LES DOWNS, Ineffective Counsel, Attorney at Law, and
FRANK RUBALID, District Attorney that went by hearsay,

Defendants.

ORDER DIRECTING PLAINTIFF TO CURE DEFICIENCIES

Plaintiff, Loretta Santistevan, a Colorado state prisoner, has submitted *pro se* a Prisoner Complaint and Prisoner's Motion and Affidavit for Leave to Proceed Pursuant to 28 U.S.C. § 1915 (ECF Nos. 1 and 3).

Although not entirely clear, Ms. Santistevan appears to be challenging both her conditions of confinement and medical treatment and the validity of the sentence she is serving. The Court advises Ms. Santistevan that, to the extent she is challenging her conditions of confinement and medical treatment, her claims properly are asserted in a Prisoner Complaint as civil rights claims pursuant to 42 U.S.C. § 1983. To the extent Ms. Santistevan is challenging the validity of the sentence she is serving, which would include a claim of ineffective assistance of counsel as well as challenges to the plea agreement, her claims properly are asserted in an application for writ of habeas corpus

pursuant to 28 U.S.C. § 2254. If Ms. Santistevan intends to pursue both civil rights claims and habeas corpus claims, she will be required to pursue those claims in separate actions.

As part of the Court's review pursuant to D.C.COLO.LCivR 8.2, the Court has determined that the submitted documents are deficient as described in this Order. Plaintiff will be directed to cure the following if she wishes to pursue her claims. Any papers that Plaintiff files in response to this Order must include the civil action number noted above in the caption of 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 (if filing a civil rights complaint)
- (4) is missing certificate showing current balance in prison account (if filing a habeas corpus application)
- (5) is missing required financial information
- (6) is missing an original signature by the prisoner
- (7) is not on proper form (must use the court's current form for filing prisoner complaints)
- (8) names in caption do not match names in caption of complaint, petition or habeas application
- (9) An original and a copy have not been received by the court.
Only an original has been received.
- (10) other:

Complaint, Petition or Application:

- (11) is not submitted
- (12) is not on proper form (must use the court's current 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) An original and a copy have not been received by the court. Only an original has been received.
- (17) Sufficient copies to serve each defendant/respondent have not been received by the court.
- (18) names in caption do not match names in text
- (19) other: Plaintiff must provide the complete addresses for all defendants in

the Prisoner Complaint. Moreover, the only proper Respondent in a habeas corpus action is Applicant's current warden, superintendent, jailer or other custodian.

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 forms used in filing whatever type of action she is trying to initiate (with the assistance of her 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.

DATED: November 19, 2013, at Denver, Colorado.

BY THE COURT:

s/Boyd N. Boland
United States Magistrate Judge