

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO

Civil Action No. 13-cv-03297-BNB

COREY BURGESS,

Applicant,

v.

JOHN C. OLIVER,

Respondent.

ORDER DIRECTING RESPONDENT TO FILE PRELIMINARY RESPONSE

Applicant, Clinton T. Eldridge, is a prisoner in the custody of the Federal Bureau of Prisons who was incarcerated at the United States Penitentiary, High Security, in Florence, Colorado, when he initiated the instant action. He since has informed the Court that he is incarcerated at the United States Penitentiary – Special Management Unit (SMU), in Lewisburg, Pennsylvania. See ECF No. 12.

As part of the preliminary consideration in this case of the amended Application for a Writ of Habeas Corpus Pursuant to 28 U.S.C. § 2241 filed on February 10, 2014 (ECF No. 11), and pursuant to *Redmon v. Wiley*, 550 F. Supp. 2d 1275 (D. Colo. 2008), the Court has determined that a limited Preliminary Response is appropriate.

Respondent is directed pursuant to Rule 4 of the Rules Governing Section 2254 Cases in the United States District Courts to file a Preliminary Response limited to addressing the affirmative defense of exhaustion of administrative remedies. If Respondent does not intend to raise this affirmative defense, Respondent must notify the Court of that

decision in the Preliminary Response. Respondent may not file a dispositive motion as a Preliminary Response, or an Answer, or otherwise address the merits of the claims in response to this Order.

In support of the Preliminary Response, Respondent should attach as exhibits copies of any administrative grievances Applicant has filed raising the issues asserted in the Application, as well as any responses to those grievances. Applicant may reply to the Preliminary Response and provide any information that might be relevant to his efforts to exhaust administrative remedies.

Accordingly, it is

ORDERED that **within twenty-one (21) days from the date of this Order** Respondent shall file a Preliminary Response that complies with this Order. It is

FURTHER ORDERED that **within twenty-one (21) days of the filing of the Preliminary Response** Applicant may file a Reply, if he desires. It is

FURTHER ORDERED that if Respondent does not intend to raise the affirmative defense of exhaustion of administrative remedies, Respondent must notify the Court of that decision in the Preliminary Response. It is

FURTHER ORDERED that the motion titled "Motion for Order Re Consent" filed on April 9, 2014 (ECF No. 17) is denied as unnecessary.

DATED April 10, 2014, at Denver, Colorado.

BY THE COURT:

s/Boyd N. Boland
United States Magistrate Judge