

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLORADO

Civil Action No. 13-cv-03401-BNB

JOEY BUENO,

Applicant,

v.

RAE TIMME, and  
THE ATTORNEY GENERAL OF THE STATE OF COLORADO,

Respondents.

---

ORDER TO FILE PRE-ANSWER RESPONSE

---

Applicant, Joey Bueno, is a prisoner who currently is incarcerated at the Colorado Territorial Correctional Facility in Canón City, Colorado. Applicant initiated this action by filing *pro se* an Application for a Writ of Habeas Corpus Pursuant to 28 U.S.C. § 2254. The Court granted Applicant leave to proceed pursuant to 28 U.S.C. § 1915.

As part of the preliminary consideration of the Application in this case and pursuant to *Keck v. Hartley*, 550 F. Supp. 2d 1272 (D. Colo. 2008), the Court has determined that a limited Pre-Answer 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 Pre-Answer Response limited to addressing the affirmative defense of exhaustion of administrative remedies with respect to the execution of his sentence. If Respondent does not intend to raise this affirmative defense, Respondent must notify the Court of that decision in the Pre-Answer Response. Respondent may not file a dispositive motion as a Pre-Answer Response, or an Answer, or otherwise

address the merits of the claims in response to this Order.

In support of the Pre-Answer Response, Respondent should attach as exhibits all relevant portions of the administrative record, including but not limited to copies of all documents demonstrating whether Applicant has exhausted administrative remedies.

Accordingly, it is

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

FURTHER ORDERED that **within twenty-one days of the filing of the Pre-Answer 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 Pre-Answer Response.

Dated: January 2, 2014

BY THE COURT:

s/Boyd N. Boland  
United States Magistrate Judge