

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO

Civil Action No. 14-cv-00162-BNB

TIMOTHY DEMITRI BROWN,

Applicant,

v.

WARDEN D. BERKEBILE,

Respondent.

ORDER

The matter before me is the “Motion for Clarification of Order to Show Cause,” ECF. No. 4. In the Motion, Applicant contends there is a conflict between two orders-- one issued on January 23, 2014, and the other issued on December 7, 2012.

The Court did not and could not have filed an order in this case on December 7, 2012. The action was not initiated until January 21, 2014. It appears that Applicant is referring to the Report and Recommendation entered in *Brown v. Fed. Bur. of Prisons, et al.*, No. 11-cv-03191-WYD-BNB, ECF No. 47 (D. Colo. Filed Dec. 8, 2011). Nothing in case No. 11-cv-03191 addresses the issues raised in this action. In the last full paragraph on Page Twenty-One of the Report and Recommendation, it reads that “[t]he Complaint does not contain any factual allegations which challenge the fact or duration of the plaintiff’s confinement. If it did, the plaintiff would be required to submit the allegations in a separate habeas petition.” *Id.* Applicant was not directed by the Court in Case No. 11-cv-03191 to file this action and raise the claims he is asserting. The

Court, therefore, finds no conflict between the two orders, as Applicant suggests, and no need to clarify the January 23, 2014 Order. Accordingly, it is

ORDERED that Applicant's Motion for Clarification of Order to Show Cause, ECF. No. 4, is denied as unnecessary. It is

FURTHER ORDERED that Applicant's request for appointment of counsel, ECF No. 4 at 2, is denied as premature. It is

FURTHER ORDERED that Applicant is required to respond to the Order to Show Cause as he was directed to do in the January 23, 2014 Order.

DATED February 4, 2014, at Denver, Colorado.

BY THE COURT:

s/ Boyd N. Boland
United States Magistrate Judge