

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO

Civil Action No. 14-cv-00213-BNB

DAVON WILLIAMS,

Petitioner,

v.

[NO DEFENDANT NAMED],

Defendant.

ORDER DIRECTING PETITIONER TO CURE DEFICIENCIES

Davon Williams, who is detained in the Denver County Jail, initiated this action on January 24, 2014, by submitting a Letter to the Court requesting legal advice on whether the City and County of Denver can lawfully detain him pending an investigation, without filing formal criminal charges. Mr. Williams is reminded that this Court cannot provide legal advice to *pro se* litigants. It is unclear at this time whether Mr. Williams is asserting a formal pre-trial challenge to his custody in the Denver County Jail.

“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). “Petitions under § 2241 are used to attack the execution of a sentence, see *Bradshaw v. Story*, 86 F.3d 164, 166 (10th Cir.1996), including the lawfulness of pre-trial custody. See *Yellowbear v. Wyoming Atty. General*, 525 F.3d 921, 924 (10th Cir. 2008) (citing *Wack v. Edmondson*, 472 F.3d 1227, 1235 (10th Cir.2007)).

After pursuant to D.C.COLO.LCivR 8.1(a), the court has determined that the

submitted document is deficient as described in this order. Mr. Williams will be directed to cure the following if he wishes to pursue his claims. Any papers that the Mr. Williams files in response to this order must include the civil action number on 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 (necessary if filing a habeas corpus application)
- (4) is missing certificate showing current balance in prison account
- (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):
- (8) names in caption do not match names in caption of complaint, petition or habeas application
- (9) other: Mr. Williams may pay the \$5.00 filing fee, instead of submitting a § 1915 Motion and Affidavit.

Complaint, Petition or Application:

- (10) is not submitted
- (11) is not on proper form (must use the court's current form)
- (12) is missing an original signature by the prisoner
- (13) is missing page nos.
- (14) uses et al. instead of listing all parties in caption
- (15) names in caption do not match names in text
- (16) addresses must be provided for all defendants/respondents in "Section A. Parties" of complaint, petition or habeas application
- (17) other:

Accordingly, it is

ORDERED that Mr. Williams cure the deficiencies designated above **within thirty (30) days from the date of this order.** Any papers that Mr. Williams files in response to this order must include the civil action number on this order. It is

FURTHER ORDERED that Mr. Martinez, with the assistance of his case

manager or the facility's legal assistant, shall obtain the Court-approved forms for filing an Application for a Writ of Habeas Corpus Pursuant to 28 U.S.C. § 2241 and Prisoner's Motion and Affidavit for Leave to Proceed Pursuant to 28 U.S.C. § 1915 in a Habeas Corpus Action, along with the applicable instructions, at www.cod.uscourts.gov.

It is

FURTHER ORDERED that, if Mr. Martinez fails to cure the designated deficiencies **within thirty (30) days from the date of this order**, this action will be dismissed without further notice. The dismissal shall be without prejudice.

DATED: January 28, 2014, at Denver, Colorado.

BY THE COURT:

s/ Boyd N. Boland
United States Magistrate Judge