

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

Civil Action No. 14-cv-01230-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.)**

DAVID LEE COLLINS,

Plaintiff,

v.

[NO NAMED DEFENDANT],

Defendant.

---

**ORDER DIRECTING PLAINTIFF TO CURE DEFICIENCIES**

---

Plaintiff, David Lee Collins, is a prisoner in the custody of the Colorado Department of Corrections who currently is incarcerated at the Arkansas Valley Correctional Facility in Ordway, Colorado. He submitted *pro se* a document titled "Notice to Withdrawal" (ECF No. 1) pursuant to the Lanham Act, 15 U.S.C. § 1127, and the Fair Credit Reporting Act, 15 U.S.C. § 1681.

Mr. Collins appears to be asking for his release from confinement. As a result, he seems to assert habeas corpus claims rather than claims pursuant to the Lanham Act or Fair Credit Reporting Act. "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). If Mr. Collins chooses to challenge his conviction and sentence, he may do so in a separate habeas corpus action filed pursuant to 28 U.S.C. § 2254.

As part of the court's review pursuant to D.C.COLO.LCivR 8.1(b), the court has

determined that the document is deficient as described in this order. Plaintiff will be directed to cure the following if he wishes to pursue his 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 (must use and complete the court's current form revised 10/01/12 with Authorization and Certificate of Prison Official)
- (2) ☐ is missing affidavit
- (3) ☒ is missing certified copy of prisoner's trust fund statement for the 6-month period immediately preceding this filing
- (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
- (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: § 1915 motion and affidavit and certified account statement only are necessary if \$400.00 filing fee is not paid in full in advance.

**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:

Accordingly, it is

ORDERED that Plaintiff cure the deficiencies designated above **within thirty (30) 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 (with the assistance of his case

manager or the facility's legal assistant) the Court-approved forms for filing a Prisoner's Motion and Affidavit for Leave to Proceed Pursuant to 28 U.S.C. § 1915 and Prisoner Complaint, along with the applicable instructions, at [www.cod.uscourts.gov](http://www.cod.uscourts.gov), and shall use those forms in curing the designated deficiencies. 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 April 30, 2014, at Denver, Colorado.

BY THE COURT:

s/Boyd N. Boland  
United States Magistrate Judge