

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO

Civil Action No. 14-cv-01280-BNB

J. LEE HOLMES,

Applicant,

v.

PEOPLE OF THE STATE OF COLORADO,

Respondent.

SECOND ORDER DIRECTING PLAINTIFF TO CURE DEFICIENCY

Applicant, a Colorado state prisoner, initiated this action by filing *pro se* a “Motion for 60 Day Extension of Time to File Habeas Corpus” (ECF No. 1). On May 7, 2014, the court entered an order directing Applicant to cure certain deficiencies if he wishes to pursue his claims in this action. In particular, the court directed Applicant to submit on the proper form an Application for a Writ of Habeas Corpus Pursuant to 28 U.S.C. § 2254 and either to pay the \$5.00 filing fee or to submit on the proper form a Prisoner’s Motion and Affidavit for Leave to Proceed Pursuant to 28 U.S.C. § 1915 in a Habeas Corpus Action along with a certificate showing the balance in his inmate account.

On May 22, 2014, Applicant filed in this action a “Notice to the Court & Affidavit of Truth and Fact” (ECF No. 4) in which he alleges he has been unable to obtain a certificate showing the balance in his inmate account from prison officials. However, even assuming Applicant is unable to obtain a certificate showing the balance in his inmate account, Applicant also has failed to cure the other deficiencies in this action

because he has not filed on the proper form an application for a writ of habeas corpus and he has not filed on the proper form a motion seeking leave to proceed *in forma pauperis* pursuant to 28 U.S.C. § 1915. Applicant will be given one more opportunity to cure the deficiencies in this action as previously directed. If Applicant is unable to obtain a certificate showing the balance in his inmate account as directed, he still must cure the other deficiencies. Applicant also must provide an explanation that details the specific steps he has taken to obtain the required certificate and why he is unable to obtain the required certificate. Accordingly, it is

ORDERED that Applicant cure the deficiencies in this action **within thirty (30) days from the date of this order**. It is

FURTHER ORDERED that Applicant shall obtain the court-approved Prisoner's Motion and Affidavit for Leave to Proceed Pursuant to 28 U.S.C. § 1915 in a Habeas Corpus Action and Application for a Writ of Habeas Corpus Pursuant to 28 U.S.C. § 2254 forms (with the assistance of his case manager or the facility's legal assistant), along with the applicable instructions, at www.cod.uscourts.gov. It is

FURTHER ORDERED that, if Applicant fails to cure the deficiencies within the time allowed, the action will be dismissed without further notice. The dismissal shall be without prejudice.

DATED June 10, 2014, at Denver, Colorado.

BY THE COURT:

s/ Boyd N. Boland
United States Magistrate Judge