

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

Civil Action No. 14-cv-01903-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.)**

ARTHUR JAMES GRIFFIN JR.,

Applicant,

v.

WITNESS: BOOKING OFFICER, Serial # 506047, and  
THE ATTORNEY GENERAL FOR THE STATE OF COLORADO,

Respondents.

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**ORDER DIRECTING APPLICANT TO CURE DEFICIENCIES**

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Applicant, Arthur James Griffin Jr., initiated this action by filing an Application for a Writ of Habeas Corpus Pursuant to 28 U.S.C. § 2254 and a Prisoner's Motion and Affidavit for Leave to Proceed Pursuant to 28 U.S.C. § 1915 in a Habeas Corpus Action.

As part of the Court's review pursuant to D.C.COLO.LCivR 8.1(b), the Court has determined that the submitted documents are deficient as described in this Order. Applicant will be directed to cure the following if he wishes to pursue his claims. Any papers that Applicant files in response to this Order must include the civil action number on this Order.

Rule 4 of the Rules Governing Section 2254 Cases in the United States District Courts requires that Applicant go beyond notice pleading. See *Blackledge v. Allison*, 431 U.S. 63, 75 n.7 (1977). Naked allegations of constitutional violations devoid of factual support are not cognizable in a federal habeas action. See *Ruark v. Gunter*, 958 F.2d 318, 319 (10th Cir. 1992) (per curiam). Applicant must allege **on the Court-**

**approved form** both the claims he seeks to raise and the specific facts to support each asserted claim. The Court has reviewed the Application submitted to the Court on July 8, 2014, and finds that it is deficient, because Applicant fails to assert on Pages Two through Four a statement of the claims he intends to raise in this Court. Also, because Applicant's criminal case has not proceeded to trial and he is not challenging a conviction and sentence his claims more properly are raised pursuant to 28 U.S.C. § 2241.

Furthermore, pursuant to 28 U.S.C. § 2243 an application for writ of habeas corpus is directed to the person who has custody of the detained person. Therefore, Applicant is directed to name as Respondent the custodian of the facility where he is incarcerated. Finally, Applicant has failed to submit an account statement showing his current balance that is certified by a prison official.

**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
- (4)  the account statement showing the current balance in Applicant's prison account is not certified
- (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)  An original and a copy have not been received by the court.  
Only an original has been received.
- (10)  other:

**Complaint, Petition or Application:**

- (11)  is not submitted
- (12)  is not on proper form (must use the Court's current form for filing 28 U.S.C. § 2241 actions)
- (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) X other: Fails to name the correct Respondent and to state the claims he intends to raise in this Court.

Accordingly, it is

ORDERED that Applicant cure the deficiencies designated above **within thirty days from the date of this Order**. Any papers that Applicant files in response to this Order must include the civil action number on this Order. It is

FURTHER ORDERED that Applicant shall obtain the Court-approved form used in filing an Application for Writ of Habeas Corpus Pursuant to 28 U.S.C. § 2241 (with the assistance of his case manager or the facility's legal assistant), along with the applicable instructions, at [www.cod.uscourts.gov](http://www.cod.uscourts.gov). Applicant must use a Court-approved form to cure deficiencies. It is

FURTHER ORDERED that if Applicant fails to cure the designated deficiencies **within thirty days from the date of this Order** the action will be dismissed without further notice.

DATED July 9, 2014, at Denver, Colorado.

BY THE COURT:

s/Boyd N. Boland  
United States Magistrate Judge