

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

Civil Action No. 14-cv-03366-GPG

(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.)

JEREMY D. HOWARD,

Plaintiff,

v.

RICK RAEMISCH, Or Current Executive Director of CDOC,
PAMELA PLOUGH, Or Current Warden of Cañon Minimum Center-ACC, FMCC, SCC,
JOHN SUTHERS, Or The Current Colorado Attorney General,
ADRIENNE GREENE, Denver Chief Deputy District Attorney, and
REBEKKA HIGGS, Denver Public Defender,

Defendants.

ORDER DIRECTING PLAINTIFF TO CURE DEFICIENCIES

On December 11, 2014, Plaintiff submitted to the Court a pleading titled, "Criminal Complaint," ECF No. 1, and a Prisoner's Motion and Affidavit for Leave to Proceed Pursuant to 28 U.S.C. § 1915, ECF No. 2. The purpose of the Criminal Complaint is not clear. Plaintiff asserts that he is filing the action pursuant to 28 U.S.C. §§ 1331 and 1343, but his request for relief is release from incarceration. A review of the pleading indicates Plaintiff is challenging both vested good time/earned time, his disciplinary record, and possibly a State of Colorado conviction. As part of the Court's review pursuant to D.C.COLO.LCivR 8.1(b), the Court has determined that the documents are deficient as described in this Order.

Because it is not clear whether the action is a challenge to the validity of Applicant's conviction and sentence, which is addressed in a § 2254 action, or a challenge to the execution of his sentence, which is addressed in a § 2241 action, the Court will direct Plaintiff to cure the deficiencies as stated below. Or if Plaintiff intends to challenge an issue other than his conviction or the execution of his sentence he must clarify his claims to the Court in a Court-approved form used in filing prisoner complaints. Any papers that Plaintiff 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
- (4) ☐ is missing certificate showing current balance in prison account
- (5) ☐ is missing required financial information
- (6) ☐ is missing authorization to calculate and disburse filing fee payments
- (7) ☐ is missing an original signature by the prisoner
- (8) ☐ is not on proper form
- (9) ☐ names in caption do not match names in caption of complaint, petition or habeas application
- (10) ☒ other: If Plaintiff is seeking habeas relief he must file the 28 U.S.C. § 1915 motion and affidavit that is used in filing a habeas action

Complaint, Petition or Application:

- (11) ☐ is not submitted
- (12) ☒ is not on proper form (Plaintiff may find the Court-approved forms at www.cod.uscourts.gov.)
- (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) ☐ names in caption do not match names in text
- (17) ☐ addresses must be provided for all defendants/respondents in "Section A. Parties" of complaint, petition or habeas application
- (18) ☐ other:

Accordingly, it is

ORDERED that Plaintiff cure the deficiencies designated above **within thirty 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 the proper forms, depending on the type of action Plaintiff intends to file, and the Prisoner's Motion and Affidavit for Leave to Proceed Pursuant to 28 U.S.C. § 1915 form used in filing a habeas action if he intends to file a habeas action (with the assistance of his case manager or the facility's legal assistant), along with the applicable instructions, at www.cod.uscourts.gov.

Plaintiff must use the Court-approved forms when curing the 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 December 11, 2014, at Denver, Colorado.

BY THE COURT:

s/ Gordon P. Gallagher
United States Magistrate Judge