

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

Civil Action No. 15-cv-00476-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.)

DUANE ERIC NICHOLAS,

Applicant,

v.

JAMES FALK, Warden, and
JOHN SUTHERS, The Attorney General of the State of Colorado,

Respondents.

ORDER DIRECTING APPLICANT TO CURE DEFICIENCIES

Applicant, Duane Eric Nicholas, is a prisoner currently incarcerated at the Sterling Correctional Facility in Sterling, Colorado. Mr. Nicholas has submitted an Application for a Writ of Habeas Corpus Pursuant to 28 U.S.C. § 2254 (ECF No. 1) and a Prisoner's Motion and Affidavit for Leave to Proceed Pursuant to 28 U.S.C. § 1915 (ECF No. 3).

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. Mr. Nicholas will be directed to cure the following if he wishes to pursue his claims. Any papers that Mr. Nicholas files in response to this Order must include the civil action number on this Order.

Furthermore, Mr. Nicholas complains that "based on a procedural state delay

tactic," he has been unable to obtain a certified copy of his trust fund account statement.

Mr. Nicholas does not specifically state that he has requested a trust fund account statement and that his request has been denied.

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) X is missing certified statement showing current balance in prison account **(if Applicant is unable to obtain a certified copy of his inmate account statement from prison officials, he must file a document with the Court detailing his specific efforts to comply with this Order and the specific actions of named individuals who refused to provide him with the account statement)**
- (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 10/1/12 revised form)
- (8) ___ names in caption do not match names in caption of complaint, petition or habeas application
- (9) X other: Applicant may in the alternative pay the \$5.00 filing fee.

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) ___ names in caption do not match names in text
- (17) ___ other:

Accordingly, it is

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

FURTHER ORDERED that Mr. Nicholas shall obtain the Court-approved form

used in filing a 28 U.S.C. § 1915 motion in a habeas corpus action (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 Mr. Nicholas fails to cure the designated deficiencies **within thirty days from the date of this Order** the action will be dismissed without further notice.

DATED March 10, 2015, at Denver, Colorado.

BY THE COURT:

s/Gordon P. Gallagher
United States Magistrate Judge