

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

Civil Action No. 15-cv-00712-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.)

NICK R. MEDINA,

“Plaintiff,”

v.

THE COLORADO DEPT. OF CORRECTIONS,
RICK RAEMISCH, Executive Director, and
WARDEN FAULK, Sterling Corr. Facility,

“Defendants.”

ORDER DIRECTING “PLAINTIFF” TO CURE DEFICIENCIES

On April 6, 2015, Mr. Medina s submitted to the Court a pleading titled, “Motion of Habeas Corpus Relief for/of Illegal Incarceration Complaint,” ECF No. 1. The purpose of the Request is not clear. 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 Mr. Medina to cure the deficiencies as stated below. Any papers that Mr. Medina files in response to this Order must include the civil action number on this Order.

Mr. Medina also is instructed that 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, Mr. Medina is directed to name as Respondent the custodian of the facility where he is detained.

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 certificate showing current balance in prison account (Mr. Medina acknowledges that he has not submitted a certified account statement.)
- (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:

Complaint, Petition or Application:

- (11) ___ is not submitted
- (12) X is not on proper form (Mr. Medina 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 Mr. Medina cure the deficiencies designated above **within thirty days from the date of this Order**. Any papers that Mr. Medina files in response to this

Order must include the civil action number on this Order. It is

FURTHER ORDERED that Mr. Medina shall obtain the proper forms, depending on the type of habeas action (28 U.S.C. § 2254 or § 2241) he intends to file (with the assistance of his case manager or the facility's legal assistant), along with the applicable instructions, at www.cod.uscourts.gov. Mr. Medina must use the Court-approved forms when curing the deficiencies. It is

FURTHER ORDERED that, if Mr. Medina 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 7, 2015, at Denver, Colorado.

BY THE COURT:

s/ Gordon P. Gallagher
United States Magistrate Judge