

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

Civil Action No. 15-cv-00915-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.)**

**EARNEST SEADIN, #0830-023,**

Applicant,

v.

**NO NAMED RESPONDENTS,**

Respondents.

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**ORDER DIRECTING Applicant TO CURE DEFICIENCIES**

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Applicant, an inmate currently incarcerated at the Florence Federal Correctional Institution, has submitted to the court a letter (ECF No. 1) complaining about a plea agreement that occurred in 1990 and the sentence imposed thereunder. Although not entirely clear, it appears that Applicant may intend to seek some relief in this court. Therefore, this habeas corpus action has been commenced.

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.

A challenge to the execution of state and federal sentences is raised in a habeas action. A 28 U.S.C. § 2241 action is the proper manner to challenge the execution of a sentence. *Montez v. McKinna*, 208 F.3d 862, 866 (10<sup>th</sup> Cir. 2000); *McIntosh v. U.S.*

*Parole Comm'n*, 115 F.3d 809, 811–12 (10<sup>th</sup> Cir. 1997) (holding that § 2241 is the appropriate vehicle to attack the execution of a sentence, including the deprivation of good-time credits).

Applicant 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 incarcerated person. Therefore, Applicant is directed to name as Respondent the custodian of the facility where he is detained.

If Applicant does not intend to pursue a habeas corpus action in this court at this time, he should advise the court of that fact and the instant action will be dismissed. Any papers that Applicant files in response to this order must include the civil action number on this order. If Applicant intends to proceed with a § 2241 action challenging the execution of his sentences he must cure the noted deficiencies.

**28 U.S.C. § 1915 Motion and Affidavit:**

- (1)  is not submitted
- (2)  is missing affidavit
- (3)  prisoner's trust fund statement is not certified
- (4)  is missing required financial information
- (5)  is missing an original signature by the prisoner
- (6)  is not on proper form (must use the Court's current form)
- (7)  names in caption do not match names in caption of complaint, petition or habeas application
- (8)  An original and a copy have not been received by the court. Only an original has been received.
- (9)  other: **In the alternative Applicant may prepay the filing fee which is \$5 in a 28 U.S.C. § 2241.**

**Complaint, Petition or Application:**

- (10)  is not submitted
- (11)  is not on proper form (must use a Court-approved form)
- (12)  is missing an original signature by the prisoner
- (13)  is missing page nos. \_\_\_\_
- (14)  uses et al. instead of listing all parties in caption
- (15)  An original and a copy have not been received by the court. Only an original has been received.

- (16) \_\_\_ Sufficient copies to serve each defendant/respondent have not been received by the court.
- (17) \_\_\_ names in caption do not match names in text
- (18) X other: **If Applicant desires to challenge the execution of his sentence he must file his claims on a Court-approved form used in filing 28 U.S.C. § 2241 actions.**

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 if Applicant desires to challenge the execution of his sentence he shall obtain the proper Court-approved forms for filing a 28 U.S.C. § 2241 action and a request to proceed pursuant to 28 U.S.C. § 1915 in a habeas action, if he desires to proceed *in forma pauperis*, (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) for use in curing 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 April 30, 2015, at Denver, Colorado.

BY THE COURT:

s/Gordon P. Gallagher  
United States Magistrate Judge