

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLORADO

Civil Action No. 15-cv-01776-GPG

RICARDO CORTEZ,

Applicant,

v.

RICK RAEMISCH, Executive Director CDOC; and  
CYNTHIA H. COFFMAN, the Attorney General of the State of Colorado,

Respondents.

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ORDER DRAWING CASE

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Applicant, Ricardo Cortez, has filed, *pro se*, an Application for a Writ of Habeas Corpus Pursuant to 28 U.S.C. § 2254.

On August 21, 2015, the Court ordered Respondents to file a Pre-Answer Response addressing the timeliness of the Application, and whether Mr. Cortez had exhausted available state court remedies before seeking federal habeas corpus relief. (ECF No. 5).

Respondents filed a Pre-Answer Response (ECF No. 9) on August 28, 2015, in which they concede that the Application is timely, and that Applicant has exhausted state court remedies for the three claims asserted in the Application. Respondents further assert that they do not waive the defenses in the event the Court concludes otherwise. (*Id.*).

Mr. Cortez's state court filings reflect that his Application is timely under the AEDPA one-year limitation period, 28 U.S.C. § 2244(d)(1), and that the claims he

asserts in the § 2254 Application were raised in his direct appeal proceeding. (See ECF No. 9-5, at 26-34).

After review pursuant to D.C.COLO.LCivR 8.1(b), the Court has determined that this case does not appear to be appropriate for summary dismissal. See D.C.COLO.LCivR 8.1(c). Therefore, the case will be drawn to a presiding judge and, if appropriate, to a magistrate judge. See D.C.COLO.LCivR 40.1(a). Accordingly, it is

ORDERED that this case shall be drawn to a presiding judge, or, if appropriate, to a magistrate judge. See D.C.COLO.LCivR 40.1(a).

DATED August 31, 2015, at Denver, Colorado.

BY THE COURT:

S/ Gordon P. Gallagher

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United States Magistrate Judge