

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

Civil Action No. 15-cv-02611-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.)**

PATRICK L. BRENNER,

Applicant,

v.

EXECUTIVE DIRECTOR OF THE CDOC AND WARDEN OF COLORADO  
TERRITORIAL CORRECTIONAL FACILITY,

Respondent.

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**ORDER DIRECTING MR. BRENNER TO CURE DEFICIENCIES**

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Mr. Patrick L. Brenner initiated this action by filing an Application for a Writ of Habeas Corpus Pursuant to 28 U.S.C. § 2241 and a Prisoner's Motion and Affidavit for Leave to Proceed Pursuant to 28 U.S.C. § 1915 in a Habeas Corpus Action. In the Application, Mr. Brenner requests compensation for property that he claims was stolen when he was moved to segregation. Mr. Brenner is challenging the conditions of his confinement.

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

Furthermore, Mr. Brenner is instructed that his attempt to file this action pursuant to 28 U.S.C. § 2241 is improper. “The essence of habeas corpus is an attack by a person in custody upon the legality of that custody, and . . . the traditional function of the writ is to secure release from illegal custody.” See *Preiser v. Rodriguez*, 411 U.S. 475, 484 (1973). Generally, a state prisoner who challenges the conditions of confinement must pursue a civil rights action. See *Sandifer v. Ledezma*, 653 F.3d 1276, 1280 (10th Cir. 2011).

**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 used in filing prisoner civil rights complaints)
- (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:

**Complaint, Petition or Application:**

- (10)  is not submitted
- (11)  is not on proper form (must use a Court-approved form used in filing prisoner civil rights complaints)
- (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)  other:

Accordingly, it is

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

FURTHER ORDERED that Mr. Brenner shall obtain the proper Court-approved forms for filing a Prisoner Complaint and a Prisoner's Motion and Affidavit to Proceed Pursuant to 28 U.S.C. § 1915, (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 Mr. Brenner 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 2, 2015, at Denver, Colorado.

BY THE COURT:

s/Gordon P. Gallagher  
United States Magistrate Judge