

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

Civil Action No. 15-cv-02672-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.)

MITCHELL VAN SPYKER,

Applicant,

v.

THE PEOPLE OF THE STATE OF COLORADO

Respondent.

ORDER DIRECTING APPLICANT TO CURE DEFICIENCIES

On December 7, 2015, Mr. Van Spyker filed *pro se* an Application for a Writ of Habeas Corpus. (ECF No. 1). As part of the court's review pursuant to D.C.COLO.LCivR 8.1(a) and (b), the court has determined that the application is deficient as described in this order. Therefore, Mr. Van Spyker will be ordered to cure the following deficiencies if he wishes to pursue his claims in this action.

It appears that Mr. Van Spyker is a pretrial detainee currently confined in the Weld County Jail. A defendant who is in state custody awaiting trial can apply for a federal writ of habeas corpus pursuant to 28 U.S.C. § 2241(c)(3).

Any papers that Applicant files in response to this order must include the civil action number on this order.

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) is missing certificate showing current balance in prison account
- (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 (must use the court's current form)
- (9) names in caption do not match names in caption of complaint, petition or habeas application
- (10) other: instead of filing a §1915 motion and supporting documents, applicant may pay the \$5.00 filing fee.

Complaint, Petition or Application:

- (11) is not submitted
- (12) is not on proper form (must use current court-approved 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) addresses must be provided for all defendants/respondents in "Section A. Parties" of complaint, petition or habeas application
- (18) other: 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. Van Spyker is directed to name as Respondent the custodian of the facility where he is detained.

Accordingly, it is

ORDERED that Applicant cure the deficiencies designated above **within thirty (30) 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 Applicant shall obtain the court-approved Prisoner's Motion and Affidavit for Leave to Proceed Pursuant to 28 U.S.C. § 1915 in a Habeas Corpus Action and Application for a Writ of Habeas Corpus Pursuant to 28 U.S.C. § 2241 (with the assistance of his case manager or the facility's legal assistant), along with the applicable instructions, at www.cod.uscourts.gov, and use those forms to cure the deficiencies. It is

FURTHER ORDERED that, if Applicant fails to cure the designated deficiencies **within thirty (30) days from the date of this order**, the action will be dismissed without further notice. The dismissal shall be without prejudice.

DATED December 10, 2015, at Denver, Colorado.

BY THE COURT:

s/ Gordon P. Gallagher
United States Magistrate Judge