

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO

Civil Action No. 15-mc-00147-GPG

SHAWN RICE,

Petitioner,

v.

BARACK OBAMA, President of the United States, and
JACOB L. LEW, Secretary of the United States Department of the Treasury,

Respondents.

ORDER TO COMMENCE CIVIL ACTION
AND DIRECTING PETITIONER TO CURE DEFICIENCIES

Petitioner is a prisoner in the custody of the Federal Bureau of Prisons at the Federal Correctional Institution at Florence, Colorado. Petitioner initiated this action by filing *pro se* a “Bill in Equity” (ECF No. 1), an “Affidavit in Support of Bill in Equity” (ECF No. 3), a “Memorandum of Points and Authorities in Support of the Bill in Equity” (ECF No. 4), a “Notice of Lack of Remedy at Law in Support of Bill in Equity” (ECF No. 5), a document titled “Appointment of New Trustees” (ECF No. 6), and a “Petition to Seal” (ECF No. 7). Petitioner also paid the \$46.00 filing fee for a miscellaneous action and the instant miscellaneous action was opened. 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.

Petitioner does not provide a clear and concise statement of the claims he intends to pursue in this action and he fails to cite any authority that would allow him to pursue those claims in a miscellaneous action. Pursuant to Rule 2 of the Federal Rules

of Civil Procedure, “[t]here is one form of action – the civil action.” Furthermore, “[a] civil action is commenced by filing a complaint with the court.” Fed. R. Civ. P. 3.

Therefore, the clerk of the court will be directed to close this miscellaneous action and commence a civil action in this matter. Petitioner will be directed to cure the following if he wishes to pursue his claims.

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: motion and certificate are necessary only if entire filing fee is not paid in advance.

Complaint, Petition or Application:

- (11) is not submitted
- (12) is not on proper form (must use the court’s Prisoner Complaint 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: _____.

Accordingly, it is

ORDERED that the clerk of the court open a regular civil action and file the documents currently filed in this miscellaneous action in the newly opened civil action along with a copy of this order. It is

FURTHER ORDERED that this miscellaneous action be closed. It is

FURTHER ORDERED that Petitioner cure the deficiencies designated above **within thirty (30) days from the date of this order**. It is

FURTHER ORDERED that Petitioner shall obtain the court-approved Prisoner's Motion and Affidavit for Leave to Proceed Pursuant to 28 U.S.C. § 1915 and Prisoner Complaint forms (with the assistance of his case manager or the facility's legal assistant), along with the applicable instructions, at www.cod.uscourts.gov. It is

FURTHER ORDERED that, if Petitioner 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 August 5, 2015, at Denver, Colorado.

BY THE COURT:

S/ Gordon P. Gallagher

United States Magistrate Judge