

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO

Civil Action No. 16-cv-00499-GPG

MYLES CALABAZA,

Petitioner

v.

CHIEF IGNACIO ADULT JUSTICE CENTER, and
CAPTAIN GLEASON, Superintendent,

Respondents.

ORDER TO FILE SUPPLEMENT RESPONSE

Petitioner Myles Calabaza currently is incarcerated at the Chief Ignacio Adult Detention Center in Towaoc, Colorado. Petitioner originally filed a Petition Under 25 U.S.C. § 1303 for Writ of Habeas Corpus by a Person in Tribal Custody, ECF No. 3, in the United States District Court for the District of New Mexico, and he was granted leave to proceed pursuant to 28 U.S.C. § 1915, ECF No. 1-6. On February 18, 2016, the District of New Mexico ordered the § 1303 Petition transferred to this Court. ECF No. 1. The District of New Mexico found the transfer proper because the “power to grant the writ falls under 28 U.S.C. § 2241” and “[w]rits of habeas corpus may be granted by . . . the district courts . . . within their respective jurisdictions.” *Id.* The District of New Mexico also determined that a transfer is proper because Petitioner is challenging his present physical detainment in Towaoc, Colorado, and has named respondents who are located in Colorado. *Id.*

Upon review of the docket for this case in the District of New Mexico, the Court finds that on December 30, 2015, the United States Attorney for the District of New Mexico filed a Response to the § 1303 Petition and addressed the nonstatutory

exhaustion requirement that normally applies to trial court authority and who is the properly named respondent in this case. See ECF No. 17. This Court, therefore, will allow the United States Attorney for the District of New Mexico to supplement the December 30, 2015 Response, as needed to address new events, and then if Petitioner desires he may reply to the December 30 Response and ordered supplement.

Accordingly, it is

ORDERED that **within twenty-one days from the date of this Order** the United States Attorney for the District of New Mexico, as identified in ECF No. 1-18, shall supplement the December 30, 2015 Response that complies with this Order. It is

FURTHER ORDERED that **within twenty-one days of the filing of the Response** Applicant may file a Reply, if he desires. It is

FURTHER ORDERED that the Clerk of this Court is directed to enter the United States Attorney as noted in ECF No. 1-18, as current counsel for named Respondent.

Dated: March 1, 2016

BY THE COURT:

s/Gordon P. Gallagher
United States Magistrate Judge