

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.

SECOND ORDER TO FILE SUPPLEMENT RESPONSE

The Court is entering a Second Order to File Supplement Response, because Respondent has failed to acknowledge or comply with the original Order to File Supplement Response, which was entered on the Docket on March 1, 2016. Respondent was to have filed a Supplement by March 22, 2016. As of the date of this Order, the Court has not received a Supplement. The Respondent will be directed again to comply. Copies of this Order and the March 1, 2016 Order will be copied to the United States Attorney's Offices for the District of Colorado and the District of New Mexico.

It appears that Petitioner Myles Calabaza remains 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 direct either the United States Attorney for the District of New Mexico or the United States Attorney for the District of Colorado 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 fourteen days from the date of this Order** the United States Attorney for the District of New Mexico, as identified in ECF No. 1-18, or the United States Attorney for the District of Colorado shall supplement the December 30, 2015 Response in compliance with this Order. It is

FURTHER ORDERED that the Clerk of the Court shall send a copy of this Order and the Order entered on March 1, 2016, ECF No. 6, to the United States Attorney’s Office for the District of Colorado; to Jeremy Pena, United States Attorney’s Office for the District of New Mexico, at jeremy.pena@usdoj.gov; and to David Adams, david.adams3@usdoj.gov. It is

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

Dated: March 29, 2016

BY THE COURT:

s/Gordon P. Gallagher
United States Magistrate Judge