

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO

Civil Action No. 16-cv-00506-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.)

EUGENE CARL HATHAWAY,

Applicant,

v.

JACK FOX, Warden ADX,
BUREAU OF PRISONS,
EDWARD F. REILLY, Chairman of United States Parole Commission,
THOMAS N. FAUST, Director, Department of Corr. District of Columbia,

Respondents.

ORDER DIRECTING APPLICANT TO CURE DEFICIENCIES

On February 24, 2016, Applicant, Eugene Carl Hathaway, filed *pro se* an Application for Writ of Habeas Corpus Pursuant to 28 U.S.C. § 2241 (ECF No. 1) and a Motion to Deposit Postage Stamps as “Security” for Filing Fees (ECF No. 2).

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. Applicant will be directed to cure the following if he wishes to pursue any claims in this Court in this action. 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) X 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
- (9) names in caption do not match names in caption of complaint, petition or habeas application
- (10) other: In the alternative, Applicant may pay the \$5.00 filing fee. Stamps may not be deposited as security for the filing fee.

Complaint, Petition or Application:

- (11) is not submitted
- (12) is not on proper 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: Application appears to contain incorrect information under "Prior Applications" section (see discussion below).

Additionally, this Court notes that Applicant currently has an application for habeas corpus pursuant to § 2241 pending in this court, *see Hathaway v. Reilly, et al.*, 15-cv-1549-RBJ, which appears to assert similar claims against the same Defendants. Despite his already pending application, Applicant checked "No" on the instant application in reply to the question: "Have you filed any prior action in federal court in which you raised or could have the raised the claims in this action?" (ECF No. 1 at 4). Mr. Hathaway is warned that the Court will not tolerate abuse of the federal court system. Mr. Hathaway should insure that the information on his Application is complete and accurate. He also should also not attempt to litigate the same issues that were

previously addressed or are currently pending in another federal case. Further abuse of the federal court system may result in filing restrictions.

Accordingly, it is

ORDERED that Applicant cure the deficiencies designated above **within thirty 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 proper Court-approved form for 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, (with the assistance of his case manager or the facility's legal assistant), along with the applicable instructions, at www.cod.uscourts.gov. Applicant must use the Court-approved forms when curing the deficiencies. It is

FURTHER ORDERED that, if Applicant fails to cure the designated deficiencies **within thirty days from the date of this Order**, the action will be dismissed without further notice. It is

FURTHER ORDERED that Applicant's "Motion to Deposit Postage Stamps as 'Security' for Filing Fees" (ECF No. 2) is DENIED.

DATED March 3, 2016, at Denver, Colorado.

BY THE COURT:

s/Gordon P. Gallagher
United States Magistrate Judge