

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

ANTONIO TERRANCE COLEMAN,

Petitioner,

v.

DAVID BERGH,

Respondent.

Case No. 12-cv-10883

HONORABLE GEORGE CARAM STEEH

ORDER REQUIRING PETITIONER TO FILE AMENDED PETITION AND DIRECTING THE
CLERK OF THE COURT TO PROVIDE PETITIONER WITH A FORM PETITION

Antonio Terrance Coleman ("Petitioner"), a Michigan state prisoner, has filed a petition for writ of habeas corpus pursuant to 28 U.S.C. § 2254. The Court has reviewed the petition, as it is required to by Rule 4 of the Rules Governing Section 2254 Cases in United States Courts, and finds that it does not meet the pleading requirements contained in the rules. The Court will therefore order Petitioner to file an amended petition.

Habeas corpus petitioners must meet the heightened pleading standards set forth in the Rules Governing Section 2254 Cases. *McFarland v. Scott*, 512 U.S. 849, 855 (1994). Rule 2 of the Rules Governing Section 2254 Cases provides in relevant part that a habeas petition must:

- (1) specify all the grounds for relief available to the petitioner;
- (2) state the facts supporting each ground;
- (3) state the relief requested;

Rule 2(c), Rules Governing Section 2254 Cases. In addition, the petition must "substantially follow either the form appended to [the habeas] rules or a form prescribed by a local district court rule. Habeas Rule 2(d). "A prime purpose of Rule 2(c)'s demand that

habeas petitioners plead with particularity is to assist the district court in determining whether the State should be ordered to 'show cause why the writ should not be granted.'" *Mayle v. Felix*, 545 U.S. 644, 656 (2005) (citation omitted). The Court has authority to dismiss before service any petition in which it plainly appears that the petitioner is not entitled to relief. Rule 4, Rules Governing Section 2254 Cases.

The petition filed here does not meet the standards set forth in Rule 2 of the Habeas Rules. The petition does not state the facts supporting each ground for relief, nor does it substantially follow the form appended to the Rules Governing Section 2254 Cases or the form used by this district. Because of these deficiencies, the Court is unable to perform its obligations under Rule 4 to preliminarily review the petition. The Court will therefore order Petitioner to file an amended petition, following either the form appended to the Rules Governing Section 2254 Cases or the form used by the courts in this district. To assist Petitioner, the Court will order the Clerk of the Court to serve a copy of the form used in this district along with this order. Petitioner will have 30 days from the date of this order to file such amended petition or risk having this action dismissed without prejudice for failure to prosecute. The Court will review any amended petition pursuant to Rule 4 of the Rules Governing Section 2254 Cases.

WHEREFORE, the Court ORDERS Petitioner file within thirty (30) days an amended petition that complies with Rule 2 of the Rules Governing Section 2254. The amended petition shall set forth facts supporting each ground for relief and shall substantially follow the form appended to the Rules Governing Section 2254 Cases or the form used by the federal district courts in this district, which is attached to this order. Petitioner's failure to submit a petition in compliance with the rules within the time allowed may result in the dismissal of this action without prejudice.

The Court further DIRECTS the Clerk of the Court to serve on Petitioner a copy of this district's form Petition Under 28 U.S.C. § 2254 for Writ of Habeas Corpus by a Person in State Custody with this order.

Dated: April 10, 2012

s/George Caram Steeh
GEORGE CARAM STEEH
UNITED STATES DISTRICT JUDGE

CERTIFICATE OF SERVICE

Copies of this Order form were served upon attorneys of record on April 10, 2012, by electronic and/or ordinary mail and also to Antonio Coleman at Thumb Correctional Facility, 3225 John Conley Drive, Lapeer, MI 48446 along with an Application for Writ of Habeas Corpus Under 28 U.S.C. § 2254 by a Person in State Custody .

s/Josephine Chaffee
Deputy Clerk