

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO

Civil Action No. 23-cv-01039-LTB-SBP

COLBY JEROME HALE EL,

Plaintiff,

v.

ADAMS COUNTY FIRE RESCUE,
LT. CHRIS HUTTNER,
STEVEN MENDIOLA,
ELIJAH ROMAN,
RYAN NOTARY,
BRENNAN HOUK,
MIKE ANGELO,
ROB HABERER,
VERNE ULLRICH,
AARON DIRYCKE,
A.P. AKER,
ADAMS COUNTY BOARD OF COMMISSIONS, and
PHILIP WEISER,

Defendants.

ORDER

This matter is before the Court on the Recommendation of United States Magistrate Judge filed June 29, 2023 (ECF No. 11). Plaintiff has filed an "Affidavit of Fact Notice of Objections to Magistrate's Recommendations" (ECF No. 25). The Court has reviewed the Recommendation *de novo* in light of the file and record in this case. On *de novo* review, the Court concludes that the Recommendation is correct.

Accordingly, for the foregoing reasons, it is

ORDERED that the Recommendation of United States Magistrate Judge (ECF No. 11) is accepted and adopted. It is

FURTHER ORDERED that the Prisoner Complaint (ECF No. 1) and this action are DISMISSED WITHOUT PREJUDICE pursuant to Fed. R. Civ. P. 41(b) for the Plaintiff's failure to comply with the pleadings requirements of Fed. R. Civ. P. 8. It is

FURTHER ORDERED that leave to proceed *in forma pauperis* on appeal is denied without prejudice to the filing of a motion seeking leave to proceed *in forma pauperis* on appeal in the United States Court of Appeals for the Tenth Circuit. The Court certifies pursuant to 28 U.S.C. § 1915(a)(3) that any appeal from this dismissal would not be taken in good faith. It is

FURTHER ORDERED that all pending motions, including ECF No. 21 are DENIED as moot.

DATED: August 9, 2023

BY THE COURT:

s/Lewis T. Babcock
LEWIS T. BABCOCK, Senior Judge
United States District Court

Appeal Documents

1:23-cv-01039-LTB-KLM Hale-El
v. Adams County Fire Rescue et
al

ALLMTN,CC
Filer,JD1,MAGR,PCR,PS4

U.S. District Court - District of Colorado

District of Colorado

Notice of Electronic Filing

The following transaction was entered on 7/14/2023 at 10:32 AM MDT and filed on 7/13/2023

Case Name: Hale-El v. Adams County Fire Rescue et al

Case Number: 1:23-cv-01039-LTB-KLM

Filer: Colby Jerome Hale-El

Document Number: 16

Docket Text:

NOTICE OF APPEAL AND NOTICE OF REMOVAL 28 USC §§ 1441-1446 IN PURSUANCE OF 28 USC § 1251(b)(1), ORIGINAL APPELLATE JURISDICTION THROUGH DIVERSITY OF CITIZENSHIP 28 USC § 1332 (a)(2) as to [11] RECOMMENDATION OF UNITED STATES MAGISTRATE JUDGE re [1] Complaint filed by Colby Jerome Hale-El by Plaintiff Colby Jerome Hale-El. (pklin,)

1:23-cv-01039-LTB-KLM Notice has been electronically mailed to:

1:23-cv-01039-LTB-KLM Notice has been mailed by the filer to:

Colby Jerome Hale-El
#202300003080
Denver Sheriff Department
P.O. Box 1108
Denver, CO 80201

The following document(s) are associated with this transaction:

Document description:Main Document

Original filename:n/a

Electronic document Stamp:

[STAMP dcecfStamp_ID=1071006659 [Date=7/14/2023] [FileNumber=9239684-0]
] [881d2fc08729350a7b1c53a9d1c0f6209284e96528da08e8287f86260eaa6a9816e
54904164037f7b41402288abc03c44fb371b04919d0e6a4a738ec123958fe]]

Appendix B

Other Documents

1:23-cv-01039-LTB-KLM Hale-El
v. Adams County Fire Rescue et
al

ALLMTN, APPEAL, CC
Filer, JD1, MAGR, PCR, PS4

U.S. District Court - District of Colorado

District of Colorado

Notice of Electronic Filing

The following transaction was entered on 7/19/2023 at 8:50 AM MDT and filed on 7/18/2023

Case Name: Hale-El v. Adams County Fire Rescue et al

Case Number: 1:23-cv-01039-LTB-KLM

Filer: Colby Jerome Hale-El

Document Number: 19

Docket Text:

NONCONSENT to Jurisdiction of Magistrate Judge by Plaintiff Colby Jerome Hale-El. (pklin,)

1:23-cv-01039-LTB-KLM Notice has been electronically mailed to:

1:23-cv-01039-LTB-KLM Notice has been mailed by the filer to:

Colby Jerome Hale-El
#202300003080
Denver Sheriff Department
P.O. Box 1108
Denver, CO 80201

The following document(s) are associated with this transaction:

Document description: Main Document

Original filename: n/a

Electronic document Stamp:

[STAMP dcecfStamp_ID=1071006659 [Date=7/19/2023] [FileNumber=9245437-0
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Appendix C

7

UNITED STATES COURT OF APPEALS
FOR THE TENTH CIRCUIT

FILED
United States Court of Appeals
Tenth Circuit

May 16, 2023

Christopher M. Wolpert
Clerk of Court

COLBY JEROME HALE-EL,

Plaintiff - Appellant,

v.

DENVER COUNTY JAIL; SHERIFF
ELIAS DIGGINS; STEVEN FRANCIS;
OFFICER MONTOYA, JOHN DOE,
Male, Sgt.; JOHN DOE, Male, Deputy;
JOHN DOE, Male, European Descent;
JANE DOE, Female, European Descent,

Defendants - Appellees.

No. 23-1115
(D.C. No. 1:23-CV-00008-RMR-SKC)
(D. Colo.)

ORDER

Before **HOLMES**, Chief Judge, **MATHESON**, and **CARSON**, Circuit Judges.

This matter is before the court on: (1) the jurisdictional show cause order it issued on April 13, 2023; and (2) *pro se* plaintiff-appellant Colby Jerome Hale-El's response. Upon consideration of these materials, the district court docket, and the applicable law, the court dismisses Mr. Hale-El's appeal for the reasons it sets forth below.

Mr. Hale-El brought the action underlying this appeal pursuant to 42 U.S.C. § 1983. On referral, Magistrate Judge Gordon P. Gallagher recommended that the district court dismiss all claims and all parties except for Mr. Hale-El's "excessive force claim asserted against Defendants Montoya, John Doe Sgt., John Doe Deputy, and John Doe

Appendix D

European Descent in their individual capacities.” [ECF No. 12 at 10]. Mr. Hale-El did not file timely objections to Judge Gallagher’s Recommendation.

The district court accepted and adopted Judge Gallagher’s Recommendation and dismissed all claims except Mr. Hale-El’s “excessive force claim asserted against Defendants Montoya, John Doe Sgt., John Doe Deputy, and John Doe European Descent in their individual capacities.” [ECF No. 15 at 2]. That claim remains pending.

Mr. Hale-El’s failure to timely and specifically object to Judge Gallagher’s Recommendation is arguably sufficient to constitute waiver of his right to appellate review of the district court’s factual and legal determinations under this circuit’s “firm waiver rule.” *See Morales-Fernandez v. I.N.S.*, 418 F.3d 1116, 1119 (10th Cir. 2005). However, our enforcement of the firm waiver rule is ultimately discretionary, *see Morales-Fernandez v. I.N.S.*, 418 F.3d 1116, 1119 (10th Cir. 2005) (invoking “our discretion” in determining whether to apply the firm-waiver rule), and, even if Mr. Hale-El had filed timely and specific objections to the Recommendation, we lack jurisdiction to review the order he seeks to appeal because that order is not final and is not otherwise appropriate for interlocutory review as discussed below. *See Handy v. City of Sheridan*, 636 F. App’x 728, 733 (10th Cir. 2016) (unpublished) (distinguishing between the “discretionary waiver rule” and jurisdiction in the context of unpreserved challenges to a magistrate judge’s order). Accordingly, we do not further consider the applicability of the firm waiver rule to this appeal, but focus instead on our jurisdiction to review the order Mr. Hale-El seeks to appeal.

This court has jurisdiction to review final decisions of the district courts, *see* 28 U.S.C. § 1291, and specific types of interlocutory and collateral orders not applicable here, *see* § 1292(a) (allowing interlocutory appeal of certain orders regarding injunctions, receiverships, and admiralty cases); *Cohen v. Beneficial Indus. Loan Corp.*, 337 U.S. 541, 545–46 (1949). Piecemeal review of interlocutory orders is generally not allowed. *See* 28 U.S.C. § 1291; *Southern Ute Indian Tribe v. Leavitt*, 564 F.3d 1198, 1207 (10th Cir. 2009); *see also United States v. Nixon*, 418 U.S. 683, 690–92 (1974) (“The finality requirement of 28 U.S.C. § 1291 embodies a strong congressional policy against piecemeal review, and against obstructing or impeding an ongoing judicial proceeding by interlocutory appeals.”).

The district court case remains pending. Accordingly, the district court’s order of partial dismissal is not final. *See id.* Nor is the order Mr. Hale-El seeks to appeal immediately appealable under § 1292 or otherwise: (1) it does not pertain to an injunction, a receivership, or an admiralty case, *see* § 1292(a); and (2) the district court has not certified the order for immediate appeal, *see* § 1292(b). The court finds Mr. Hale-El’s arguments to the contrary unavailing.

For the foregoing reasons, this court lacks jurisdiction over this appeal.

APPEAL DISMISSED.

Entered for the Court



CHRISTOPHER M. WOLPERT, Clerk

COPY

Moorish American Consular Court, Competent Jurisdiction
Pursuant to P.L. 8 Stat. 484

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO

Civil Action No. 1:23-CV-00008-RMR-SKC

Colby Jerome Hale El,
Plaintiff,

v.

Denver County Jail, et al.,
Defendants,

FILED
UNITED STATES DISTRICT COURT
DENVER, COLORADO

AUG 01 2023

JEFFREY P. COLWELL
CLERK

IN Pursuance of 28 USC § 636 (b)(1)(A), (b)(2) and (c)(2) Nonconsent
to Magistrate Judge and Notice of Removal 28 USC §§ 1441-1446
Invoking Original Jurisdiction 28 USC § 1251 (b)(1), Diversity of
Citizenship 28 USC § 1332 (a)(2)

I am Colby Jerome Hale El, a Moorish American National, In Propria Persona, Sui Juris,
In Proprio Solo, In Proprio Heredes at all times and all points in time.

- 1) On the record, for the record, and let the record reflect, plaintiff's (1) Notice of Public Record Status Correction International Document, (2) Lawful Notice! - Appellation Declaration, Correction - Proclamation and Publication, and (3) Judicial Notice and Proclamation. Can be found at www.MoorishAmericanConsulate.org click on "Consulate Courts" then click on "Georgia Republic."
- 2) Plaintiff, does not consent to have a Magistrate or District Court Judge preside over this case. Who will arbitrarily act in Bad Faith, through their automated Willful Blindness of Corruption. The case number mentioned above is a Title 42 USC § 1983, which sole purpose is to bring remedy under one's Official Capacity. Who is working under color of federal or state law. The officer took an oath, had on a uniform, were at work, taking fingerprints that the Denver Sheriff Department pays them to do. What other proof does the U.S. District Court need to believe that the officers were acting under color of authority. Gordon P. Gallagher, erroneously dismissed everything and said that the officers can only be sued in their private capacities
- 3) Duty of District Court to hold evidentiary hearing before acting upon magistrate's findings of fact and recommendations submitted pursuant to 28 USC § 636 (b)(1)(B)
49 ALR Fed 763

Notices

1:23-cv-00359-LTB-KLM Hale-El
v. Thornton Police Department et
al

ALLMTN,CC
Filer,JD1,MAGR,PCR,PS4

U.S. District Court - District of Colorado

District of Colorado

Notice of Electronic Filing

The following transaction was entered on 7/12/2023 at 2:45 PM MDT and filed on 7/12/2023

Case Name: Hale-El v. Thornton Police Department et al

Case Number: 1:23-cv-00359-LTB-KLM

Filer: Colby Jerome Hale-El

Document Number: 35

Docket Text:

NOTICE by Plaintiff Colby Jerome Hale-El (Attachments: # (1) Envelope) (pklin,)
of Appeal to the Supreme Court

1:23-cv-00359-LTB-KLM Notice has been electronically mailed to:

1:23-cv-00359-LTB-KLM Notice has been mailed by the filer to:

Colby Jerome Hale-El
c/o Denver Sheriff's Office
P.O. Box 1108
Denver, CO 80201

The following document(s) are associated with this transaction:

Document description:Main Document

Original filename:n/a

Electronic document Stamp:

[STAMP dcecfStamp_ID=1071006659 [Date=7/12/2023] [FileNumber=9236414-0]
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Document description:Envelope

Original filename:n/a

Electronic document Stamp:

[STAMP dcecfStamp_ID=1071006659 [Date=7/12/2023] [FileNumber=9236414-1]
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Appendix F

Moorish American Consular Court, Competent Jurisdiction
Pursuant to P.L. 8 Stat. 484

Copy IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO

Civil Action No. 1:23-cv-00359-KLM

Colby Jerome Hale El,
Plaintiff,

v.

Thorton Police Department,
Officer, C.F. Hill, et al.,
Defendants,

FILED
UNITED STATES DISTRICT COURT
DENVER, COLORADO

JUL 12 2023

JEFFREY P. COLWELL
CLERK

Notice of Appeal, pursuant to 28 USC § 1251^{(a)(1)} Original
Appellate Jurisdiction and Notice of Removal 28 USC §§
1441-1446 in a Diversity of Citizenship 28 USC § 1332 (a)(2)
Action

I am Colby Jerome Hale El, a Moorish American National, In Propria Persona, Sui
Juris, In Proprio Solo, In Proprio Heredes at all times and all points in time.

- 1) On the record, for the record, and let the record reflect, plaintiff's (1) Notice of
Public Record Status Correction International Document, (2) Lawful Notice! -
Appellation Declaration, Correction-Proclamation and Publication, and (3) Judicial
Notice and Proclamation. Can be found on www.MoorishAmericanConsulate.org
go to "Consulate Courts" then click on "Georgia Republic."
- 2) For the record, on the record, and let the record reflect, plaintiff has used the
U.S. District Courts 42 USC § 1983 form, 'ONLY', substituting Prisoner, for,
Moorish American National and Hostage, Complaint. ~~Copy~~ Satisfying
Fed. R. Civ. P. Rule 8 (a) and (d)(1) No technical form^{is} required.

1 want to know if he's going to be requesting additional discovery?

2 Ms. Doyle: I just, kind of, want it—not kind of, I do want it on the record
3 that he has the ability to expedite the discovery process from our office by
4 requesting that he gets everything because often times we'll put them on the disc
5 and then an investigator will bring it over to him.

6 The Court: Uh-huh.

7 Ms. Doyle: My understanding is that if we have a request for discovery
8 from Mr. Hale, it may help expedite getting him those discs.

9 The Court: Do you need a written request, or can he make a verbal
10 request?

11 Ms. Doyle: That's what I'm—

12 Mr. Hale: I thought I made a verbal request last time I was in here.

13 The Court: Well, he did—Mr. Huisman (Phonetic) was present, Mr.
14 Huisman noted his request at that stage for purposes of discovery and any
15 additional discovery. I don't know if that reached your notes or whatnot, but he
16 did make the request verbally.

17 Ms. Doyle: And, I had initially sent in that request because I handled
18 the return filing date, I just happened to be in here. So, that's how we got the first
19 two discs over to him. I'm trying to wait on my support staff to educate myself
20 how they—how it helps expedite the process just because I'm familiar with it. I
21 believe he can file written requests to our office and that will help the process.

22 The Court: That's correct as well. So, Mr. Hale, it probably would be
23 best, since you said you already have a motion ready for discovery, you need to
24 go to the library as soon as possible and get that motion filed. In other words, get
25 that mailed. It'll come here. It will be in the file; the district attorneys will have

Moorish American Consular Court, Competent Jurisdiction

Pursuant to P.L. 8 Stat. 484

Copy

- 3) Plaintiff is filing this Notice of Removal for Original Appellate Jurisdiction. Pursuant to the Rules of the Supreme Court of the United States, Rule 18 appeal from a United States District Court.
- 4) Plaintiff asserts Original Appellate Jurisdiction, pursuant to 28 USC § 1251 (b)(1) "All actions or proceedings to which ambassadors, other public ministers, consuls, or vice consuls of foreign states are parties"
- 5) Title 28 USC § 1332 (a)(2) citizens of a State and citizens or subjects of a foreign state, except that the district courts shall not have original jurisdiction under this subsection of an action between citizens of a State and citizens or subjects of a foreign state who are lawfully admitted for permanent residence in the United States and are domiciled in the same State
- 6) Plaintiff is protected by the treaty of peace and friendship between Morocco and U.S., Article six of the U.S. Constitution, Sovereign Immunities Act of 1976, 28 USC § 1601

2nd NOTICE OF CHANGE OF MAILING LOCATION
TO THE DENVER SHERIFF DEPARTMENT

It has been almost a month since plaintiff has changed his mailing location here it is again, so plaintiff will know something has been filed.

c/o Denver Sheriff Department

P.O. Box 1108

Denver, Colorado [80201]

AFFIDAVIT OF IN FORMA PAUPERIS

I, Colby Jerome Hale El, declare under the penalties of perjury that I don't have the money to pay for the courts filing fee.

This document is executed under the penalty of perjury; [in the nature of 28 USC § 1746(1)]

I AM

Colby Jerome Hale El

Date: July 6, 2023

Natural Person - In Propria Persona, Sui Juris and Sui Heredes -
In Solo Proprio; Authorized Representative; All Rights Reserved

OTHER SIDE

43

1 notice of that so they can make sure that they expedite that aspect.

2 Mr. Hale: I got a question. I don't have twenty years in this field
3 because mine is electronics. So—

4 The Court: Which is probably why you should have an attorney but go
5 ahead.

6 Mr. Hale: --but I thought, like, the last time I was put in an oral motion.

7 The Court: That's exactly what I just stated, so we just said that, but
8 sometimes, and not sometimes, but all the time, the courts prefer things in writing
9 so that you can protect the record and it's easier. So, if you have a motion, as
10 soon as you get down here, ask the deputies when it's your time to get to the
11 library to get that motion filed so that you can make sure that that's on the record
12 and in the file if you will.

13 Mr. Hale: Well, you know, I talked to them at the—at the library and
14 they told me that I can just bring it up here and just hand it to you all.

15 The Court: We don't generally take motions like that, but quite frankly,
16 at this stage for expediting purposes, can I see the motion? Can you hand it to
17 the—can you hand it to, Corey, is it? Can you bring that motion up here and
18 whatnot? Sorry. And, I know you don't have a copy of this, Ms. Doyle, so, give
19 me a moment. If we need to, we can make a copy of it for you.

20 Mr. Hale: I already got one.

21 The Court: You have an extra copy?

22 Mr. Hale: Uh-huh.

23 The Court: That can go to Ms. Doyle?

24 Mr. Hale: Uh-huh.

25 The Court: Okay. Can you hand that to the deputy or whatnot? Or, or—

OTHER SIDE

OTHER SIDE

OTHER SIDE

Other Orders/Judgments

1:23-cv-01039-LTB-SBP Hale-El
v. Adams County Fire Rescue et
al

ALLMTN,CC
Filer,JD1,PCR,PS4,TERMED

U.S. District Court - District of Colorado

District of Colorado

Notice of Electronic Filing

The following transaction was entered on 8/9/2023 at 8:51 AM MDT and filed on 8/9/2023

Case Name: Hale-El v. Adams County Fire Rescue et al

Case Number: 1:23-cv-01039-LTB-SBP

Filer:

WARNING: CASE CLOSED on 08/09/2023

Document Number: 30

Docket Text:

JUDGMENT by Clerk re: [29] Order, by Clerk on 08/09/2023. (pklin,)

1:23-cv-01039-LTB-SBP Notice has been electronically mailed to:

1:23-cv-01039-LTB-SBP Notice has been mailed by the filer to:

Colby Jerome Hale-El
#202300003080
Denver Sheriff Department
P.O. Box 1108
Denver, CO 80201

The following document(s) are associated with this transaction:

Document description:Main Document

Original filename:n/a

Electronic document Stamp:

[STAMP dcecfStamp_ID=1071006659 [Date=8/9/2023] [FileNumber=9276133-0]
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Appendix H

UNITED STATES COURT OF APPEALS

FOR THE TENTH CIRCUIT

September 1, 2023

Christopher M. Wolpert
Clerk of Court

COLBY JEROME HALE-EL,

Plaintiff - Appellant,

v.

THORTON POLICE DEPARTMENT, et
al.,

Defendants - Appellees.

No. 23-1269
(D.C. No. 1:23-CV-00359-LTB-SBP)
(D. Colo.)

ORDER

This matter is before the court *sua sponte* following the opening of this appeal. We have identified a probably procedural defect that could result in summary dismissal. *See* 10th Cir. R. 27.3(B). Specifically, we believe the appellant may have waived appellate review of the district judge's order accepting the magistrate judge's recommended disposition and the judgment dismissing the case because he did not file objections to the recommendation. Regular proceedings in this appeal, including briefing on the merits, are suspended at this time and pending further order of this court. *Id.* at 27.3(C).

The appellant was advised on the recommendation about the necessity of filing objections with the district judge to preserve any potential right to appellate review. ECF No. 31, n. 1; ECF No. 36 (granting an additional fourteen days to object due to a change of mailing address). The district court docket does not show that the appellant filed objections to the recommendation. And the district judge's order adopting the magistrate

Appendix I

judge's recommendation of dismissal stated that the appellant did not file any document specifically and expressly objecting to the recommendation. ECF No. 38, p.2.

On or before September 15, 2023, the appellant shall file a memorandum brief addressing the following question and no other: whether he waived appellate review of the dismissal order and final judgment because he did not file timely and specific written objections to the magistrate judge's recommendations adopted in the district court's final order? *See* 28 U.S.C. § 636(b)(1)(C); *Moore v. United States*, 950 F.2d 656, 659 (10th Cir. 1991) (“[F]ailure to make timely objections to the magistrate’s findings or recommendations waives appellate review of both factual and legal questions.”); *see also Wardell v. Maggard*, 470 F.3d 954, 958 (10th Cir. 2006) (firm waiver rule applies to pro se litigants if informed of time to object and consequences of failing to do so); *Wirsching v. Colorado*, 360 F.3d 1191, 1196 (10th Cir. 2004) (describing interests of justice exception). Any response filed shall address this appeal specifically.

Failure to file a timely and complete response to this order to show cause may be grounds for dismissal of this appeal without further notice for lack of prosecution. 10th Cir. R. 42.1.

Entered for the Court
CHRISTOPHER M. WOLPERT, Clerk



By: Allie Parrott
Counsel to the Clerk

DENVER SHERIFF DEPARTMENT INMATE GRIEVANCE FORM

(Formulario de queja)

NAME: Appellation: Colby Jerome Hale El CD#: Human Trafficking LOCATION: 21 M3
(Nombre) (Ublcación)

DATE AND TIME OF INCIDENT: November 22 2023
(Fecha y hora del incidente)

STATEMENT DETAILING THE ACT OR CONDITION GIVING RISE TO THE GRIEVANCE: Today a Petition for a
(Declaración detallando el acto o condición que da lugar a la queja)

Writ of Prohibition and Writ of Mandamus

was given to officer to be placed in the mailbox to be mailed to the Supreme
Court of the United States at 1 First Street, N.E., Washington, D.C. [20543]

SPECIFIC REMEDY SOUGHT: This is for my RECORDS, since I am being refused Certified Mail.
(Remedio específico inquirido)

STAFF MEMBER ANSWER:
(Respuesta por un miembro del personal)

STAFF MEMBER ANSWERING
(Contestador miembro del personal)

BADGE # / CIVILIAN #
(Número de placa / Insignia / Número de empleado civil)

DATE OF RESPONSE
(Fecha de la respuesta)

(IF MORE SPACE IS REQUIRED, ADDITIONAL PAPER MAY BE USED)
(Si requiere más espacio, puede usar otra hoja adicional)

DATE SUBMITTED: _____ INMATE'S SIGNATURE: _____
(Fecha de envío) (Firma del recluso)

RECEIVED BY: _____ DATE RECEIVED: _____
(Recibido por) Print Name Badge # / Civilian # (Fecha recibida)

ASSIGNED TO: _____ DATE: _____
(Asignado a) (Fecha)