

STATE OF VERMONT  
WINDSOR COUNTY, SS.

State of Vermont

v.

Gerion D. Silva

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Windsor Superior Court

Petition for Writ of Habeas Corpus

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Docket No. S194-4-97 Wrcv

**NOTICE OF HEARING**

On April 29, Gerion D. Silva filed this petition for writ of habeas corpus through his attorney Michael R. Kainen. He requests a release from custody, alleging that he is unlawfully incarcerated pursuant to Vermont District Court Docket Number 11-4-97 Wrcm.

Petitioner has not complied with the statutory requirements for the filing of a petition for writ of habeas corpus. A proper petition should set forth such facts as to make a prima facie case for relief. In re Rickett, 124 Vt. 232, 234 (1964). When the imprisonment or restraint is by virtue of a warrant or other process, a copy thereof must be annexed to the complaint. 12 V.S.A. § 3954. The facts set forth in the complaint must be verified by the oath of the person making the application or by that of some credible witness. 12 V.S.A. § 3955. The petition filed in this case does not satisfy these requirements.

In fact the court has some documents from the Governor's office that were delivered to the court by the Windsor County Sheriff, but those documents are not properly part of the record at this time.

The court will hold a hearing concerning the petition at 3:30 P.M. on Friday, May 2, 1997. Prior to the hearing, petitioner may have the opportunity to cure the deficiencies in the petition. See In re Rickett, 124 Vt. 232, 234 (1964) (petition by a person in restraint should not be held to the intricacies and pitfalls of strict practice and procedure). Petitioner must cure the deficiencies before the commencement of the hearing; otherwise the court will dismiss the petition for failing to comply with the procedural requirements.

Dated at Woodstock, Vermont this 1st day of May, 1997.

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Hon. Mary Miles Teachout,  
Presiding Superior Court Judge

Copies:

Michael R. Kainen, Esq., Attorney for Petitioner  
John W. Vorder Bruegge, Deputy State's Attorney  
William Heinz, Windsor County Sheriff