

FILED
 UNITED STATES DISTRICT COURT
 DENVER, COLO.

DEC 14 2005

GREGORY C. LANGHAM
 CLERK

IN THE UNITED STATES DISTRICT COURT
 FOR THE DISTRICT OF COLORADO

05 - CV - 02530 - DES

Civil Action No. _____

(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.)

CLARENCE SMITH #56449,

Applicant,

v.

STEVE GREEN, Warden, Delta Correctional Center, and
 THE ATTORNEY GENERAL OF THE STATE OF COLORADO,

Respondents.

**ORDER DIRECTING CLERK TO COMMENCE CIVIL ACTION AND
 DIRECTING APPLICANT TO CURE DEFICIENCY**

Applicant has submitted Prisoner's Motion and Affidavit for Leave to Proceed Pursuant to 28 U.S.C. § 1915 in a Habeas Corpus Action, and an Application for a Writ of Habeas Corpus Pursuant to 28 U.S.C. § 2254. The court has determined that the documents are deficient, as Applicant's claims are more properly asserted on a Court-approved form used in filing 28 U.S.C. § 2241 applications. Notwithstanding the deficiencies, the clerk of the court will be directed to commence a civil action. Applicant will be directed to cure the following if he wishes to pursue his claims. Any papers which the 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) 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 (Account statement submitted is not certified by a prison official.)
- (4) is missing required financial information
- (5) is missing an original signature by the prisoner
- (6) is not on proper form (must use the court's current form)
- (7) names in caption do not match names in caption of complaint, petition or habeas application
- (8) An original and a copy have not been received by the court. Only an original has been received.
- (9) other _____

Complaint, Petition or Application:

- (10) is not submitted
- (11) is not on proper form (must use the court's current form)
- (12) is missing an original signature by the prisoner
- (13) is missing page nos. _____
- (14) uses et al. instead of listing all parties in caption
- (15) An original and a copy have not been received by the court. Only an original has been received.
- (16) Sufficient copies to serve each defendant/respondent have not been received by the court.
- (17) names in caption do not match names in text
- (18) other _____

Accordingly, it is

ORDERED that the clerk of the court commence a civil action in this matter. It is

FURTHER ORDERED that the Applicant cure the deficiencies designated above **within thirty (30) days from the date of this order.** Any papers which the Applicant files in response to this order must include the civil action number on this order. It is

FURTHER ORDERED that the clerk of the court mail to the Applicant, together with a copy of this order, two copies of the following forms: Application for a Writ of Habeas Corpus Pursuant to 28 U.S.C. § 2241. It is

FURTHER ORDERED that, if the Applicant fails to cure the designated deficiencies **within thirty (30) days from the date of this order**, the application and the action will be dismissed without further notice. The dismissal shall be without prejudice.

DATED at Denver, Colorado, this 14 day of December, 2005.

BY THE COURT:

A handwritten signature in black ink, appearing to read "O. Edward Schlatter", written over a horizontal line.

O. EDWARD SCHLATTER
United States Magistrate Judge

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO

CERTIFICATE OF MAILING

Civil Action No. **05 - CV - 02530** - OES

Clarence Smith
Prisoner No. 56449
4102 Sawmill Mesa Rd
Delta, CO 81416

I hereby certify that I have mailed a copy of the **ORDER and two copies of Application for a Writ of Habeas Corpus Pursuant to 28 U.S.C. § 2241** to the above-named individuals on 12/14/05

GREGORY C. LANGHAM, CLERK

By:  _____
Deputy Clerk