

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO

FILED
UNITED STATES DISTRICT COURT
DENVER, COLO.

DEC 20 2005

GREGORY C. LANGHAM
CLERK

Civil Action No. 05 - CV - 02583 - OES
(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.)

JOHNNY A. MONTANA,

Plaintiff,

v.

STEVE HARGETT, Warden of Crowley County Correctional Facility,
RANDY MARTINEZ, Unit 2 Case Manager, Crowley County Correctional Facility,
ANGELA ALCON, Correctional Officer, Crowley County Correctional Facility,
SHERRI VAN METER, Correctional Officer, Crowley County Correctional Facility, and
JANE & JOHN DOE(S), "I through X," each defendant I sued individually and in his [or her] Official Capacities,

Defendants.

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

Plaintiff has submitted a Motion for Leave to Proceed In Forma Pauperis and Supporting Affidavit, and a Complaint. The court has determined that the documents are deficient as described in this order. Notwithstanding the deficiencies, the clerk of the court will be directed to commence a civil action. Plaintiff will be directed to cure the following if he wishes to pursue his claims. Any papers which the Plaintiff 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 does not cover the entire 6-month period.)
- (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 Plaintiff cure the deficiencies designated above **within thirty (30) days from the date of this order.** Any papers which the Plaintiff 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 Plaintiff, together with a copy of this order, two copies of the following forms: Prisoner's Motion and Affidavit for Leave to Proceed Pursuant to 28 U.S.C. §1915; Prisoner Complaint. It is

FURTHER ORDERED that, if the Plaintiff fails to cure the designated deficiencies **within thirty (30) days from the date of this order,** the complaint and the

action will be dismissed without further notice. The dismissal shall be without prejudice.

DATED at Denver, Colorado, this 20 day of December, 2005.

BY THE COURT:



O. EDWARD SCHLATTER
United States Magistrate Judge

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO

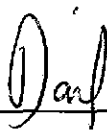
CERTIFICATE OF MAILING

Civil Action No. **05 - CV - 02583** -DES

Johnny A. Montana
Prisoner No. 20951
Wyoming State Penitentiary
PO Box 0400
Rawlins, WY 82301-0400

I hereby certify that I have mailed a copy of the **ORDER and two copies of Prisoner's Motion and Affidavit for Leave to Proceed Pursuant to 28 U.S.C. §1915 and Prisoner Complaint** to the above-named individuals on 12/20/05

GREGORY C. LANGHAM, CLERK

By: 
Deputy Clerk