

FILED
UNITED STATES DISTRICT COURT
DENVER, COLORADO

DEC 28 2005

Civil Action No.

05 - CV - 02635 -DES

GREGORY C. LANGHAM
CLERK

(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.)

ERIC JOSEPH LAURSON (through Patrick Brown as Next Friend)

Applicant,

v.

SUPERINTENDENT CARL ZENON, and
THE ATTORNEY GENERAL OF THE STATE OF COLORADO,

Respondents.

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

Patrick Brown, a state prisoner, has submitted an Application for a Writ of Habeas Corpus Pursuant to 28 U.S.C. § 2254 and a Prisoner's Motion and Affidavit for Leave to Proceed Pursuant to 28 U.S.C. § 1915 in a Habeas Corpus Action as a "next friend" for Eric Joseph Laurson, also a state prisoner. 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.

Even if the Court were to consider allowing "next friend" standing in the instant Application, Mr. Brown does not meet the requirements. To be allowed "next friend" standing a person must provide not only an adequate explanation as to why the real party is not able to appear, such as mental incompetence, which Mr. Brown asserts, but must also be truly dedicated to the best interest of the person and must have some

significant relationship to the real party in interest. *Whitmore v. Arkansas*, 495 U.S. 149, 163-64 (1990). Simply because both Mr. Brown and Mr. Laurson are prisoners it does not indicate that there is a significant relationship between them or that Mr. Brown is truly dedicated to the best interest of Mr. Laurson.

Since Mr. Brown does not qualify as a "next friend," as a lay person he may not participate in the unauthorized practice of law by filing actions on behalf of another in violation of state and federal provisions governing the practice of law. *Weber v. Garza*, 570 F.2d 511, 514 (5th Cir. 1978). Therefore, the following listed deficiencies must be cured if an Application is to proceed for Mr. Laurson. Any papers which are filed in response to this Order must include the civil action number on the Order.

28 U.S.C. § 1915 Motion and Affidavit:

- (1) is not submitted
- (2) is missing affidavit
- (3) is missing certified copy of Mr. Laurson's trust fund statement for the 6-month period immediately preceding this filing
- (4) is missing required financial information
- (5) is missing an original signature by Mr. Laurson
- (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 Mr. Laurson
- (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 Mr. Laurson cure the deficiencies designated above **within thirty (30) days from the date of this Order**. Any papers which Mr. Laurson files in response to the Order must include the civil action number on the Order. It is

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

DATED at Denver, Colorado, this 28 day of November, 2005.

BY THE COURT:

s/ O. Edward Schlatter

O. EDWARD SCHLATTER
United States Magistrate Judge

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO

CERTIFICATE OF MAILING

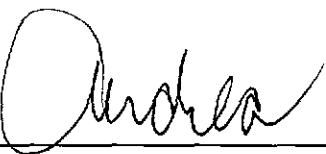
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Eric Joseph Laurson
Prisoner No. 99598
Arkansas Valley Corr. Facility
PO Box 1000 – Unit 5
Crowley, CO 81034

Patrick A. Brown
Prisoner No. 83369
Crowley County Corr. Facility
6564 State Hwy. 96 – Unit 6-B
Olney Springs, CO 81062-8700

I hereby certify that I have mailed a copy of the **ORDER** to the above-named individuals on 12/28/05

GREGORY C. LANGHAM, CLERK

By: 

Deputy Clerk