

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLORADO

**05 - CV - 02655 - OES**

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.)

**FILED**  
UNITED STATES DISTRICT COURT  
DENVER, COLO.  
DEC 29 2005  
GREGORY C. LANGHAM  
CLERK

MICHAEL JAMES DIPENTINO,

Petitioner,

v.

THE COLORADO DEPARTMENT OF CORRECTIONS,  
DIRECTOR JOE ORTIZ, CDOC,  
LIMON CORRECTIONAL FACILITY,  
THE DENVER COUNTY JAIL,  
DENVER UNDERSHERIFF FRED OLIVA,  
ALL INDIVIDUAL PARTIES UN-NAMED BUT PARTY TO THIS ACTION, and  
BENT COUNTY CORRECTIONAL FACILITY (CCA, Inc.),

Respondents.

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

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Petitioner has submitted a Motion to Proceed In Forma Pauperis, a Petition for Writ of Mandamus, a Notice Pursuant to C.R.S. §1973 as Amended 24-10-109, and a document titled "Restricted Legal Access". 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. Petitioner will be directed to cure the following if he wishes to pursue his claims. Any papers which the Petitioner 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 Petitioner cure the deficiencies designated above **within thirty (30) days from the date of this order.** Any papers which the Petitioner 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 Petitioner, 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. It is

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

DATED at Denver, Colorado, this 29<sup>th</sup> day of December, 2005.

BY THE COURT:

  
\_\_\_\_\_  
BOYD N. BOLAND  
United States Magistrate Judge

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLORADO


**CERTIFICATE OF MAILING**

Civil Action No. **05 - CV - 02655** - OES

Michael James Dipentino  
Prisoner No. 103894  
Limon Correctional Facility  
49030 State Hwy. 71  
Limon, CO 80826

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** to the above-named individuals on 12/29/05

GREGORY C. LANGHAM, CLERK

By:  \_\_\_\_\_  
Deputy Clerk