

IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF COLORADO

Civil Action No. 06 - CV - 00143 - BNB (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, COLORADO

JAMES RODRIGUEZ, SR.,

Applicant,

JAN 26 2006

GREGORY C. LANGHAM CLERK

v.

MR. W. SHERROD, Warden,

Respondent.

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

Applicant has submitted an Application to Proceed Without Prepayment of Fees and Affidavit, and an Application for a Writ of Habeas Corpus Pursuant to 28 U.S.C. § 2241. 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. 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) X 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: Prisoner's Motion and Affidavit for Leave to Proceed Pursuant to 28 U.S.C. § 1915 in a Habeas Corpus Action; 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 26<sup>th</sup> day of January, 2006.

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. **06 - CV - 00143** *Bill B*

James Rodriguez, Sr.  
Reg. No. 02781-025  
FCI – Englewood  
9595 W. Quincy Ave.  
Littleton, CO 80123

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 in a Habeas Corpus Action and Application for a Writ of Habeas Corpus Pursuant to 28 U.S.C. § 2241** to the above-named individuals on 1/26/06

GREGORY C. LANGHAM, CLERK

By: 

Deputy Clerk