

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLORADO

**FILED**  
UNITED STATES DISTRICT COURT  
DENVER, COLO.

FEB 10 2006

Civil Action No. 06 - CV - 00231 - 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.)

GREGORY C. LANGHAM  
CLERK

DAVID ANTHONY FALLON,

Plaintiff,

v.

UNITED STATES OF AMERICA, c/o UNITED STATES FEDERAL COURTHOUSE,  
DENVER, COLORADO 80294,

Defendant.

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

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Plaintiff has submitted a Forma Pauperis Application, a Civil Cover Sheet, and an untitled document. 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 Plaintiff files in response to this Order must include the civil action number on this Order.

The Court notes that a Mr. David Anthony Fallon has filed over 150 complaints in several different federal district courts. In particular, he has filed at least sixty cases since 1996 in the United States District Court for the Northern District of California (Northern District of California) and at least thirty cases in the United States District Court for the Eastern District of California (Eastern District of California). He also has

filed cases in federal courts in the states of Pennsylvania, Washington, Illinois, Oregon, the District of Columbia, Missouri, Connecticut, Ohio, Maryland, New Jersey, and Texas. In the majority of the actions, Mr. Fallon has been denied leave to proceed pursuant to 28 U.S.C. § 1915 and the complaints have been dismissed either as frivolous, for failure to state a claim, or for lack of subject matter jurisdiction. Mr. Fallon was cautioned by the Eastern District of California, in *Fallon v. United States*, No. 05-cv-00967-GEB-PAN-PS (E.D. Cal. Sept. 9, 2005), that he may be sanctioned pursuant to Fed. R. Civ., P. 11(b) if he continued to file frivolous complaints.

The *in forma pauperis* application, the format of the Complaint, the request for relief, and the signature in the instant action are the same as they are in many of the actions that have been filed in other federal district courts by Mr. David Anthony Fallon. Furthermore, the claims in the instant action are frivolous and fail to comply with Rule 8 of the Federal Rules of Civil Procedure. Mr. Fallon, therefore, must both cure the deficiencies as stated below, and amend the Complaint in keeping with Rule 8.

**Motion and Affidavit for Leave to Proceed Pursuant to 28 U.S.C. § 1915:**

- (1)  is not submitted
- (2)  is not on proper form (must use the Court's current form)
- (3)  is missing original signature by Plaintiff
- (4)  is missing affidavit
- (5)  affidavit is incomplete
- (6)  affidavit is not notarized or is not properly notarized
- (7)  names in caption do not match names in caption of Complaint, petition or application
- (8)  An original and a copy have not been received by the Court.  
Only an original has been received.
- (9)  other \_\_\_\_\_

**Complaint or Petition:**

- (10)  is not submitted
- (11)  is not on proper form (must use the Court's current form)
- (12)  is missing an original signature by Plaintiff

- (13) \_\_\_ is incomplete
- (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 Plaintiff cure the deficiencies designated above **within thirty (30) days from the date of this Order**. Any papers which 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 Plaintiff, together with a copy of this Order, copies of the following forms: Motion and Affidavit for Leave to Proceed Pursuant to 28 U.S.C. § 1915; Complaint. It is

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

FURTHER ORDERED that Plaintiff must amend the Complaint in keeping with Fed. R. Civ. P. 8.

DATED at Denver, Colorado, this 10<sup>th</sup> day of February, 2006.

BY THE COURT:

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

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLORADO

**CERTIFICATE OF MAILING**

Civil Action No. **06 - CV - 00231** - BAB

David Anthony Fallon  
General Delivery  
Denver, CO 80204

I hereby certify that I have mailed a copy of the **ORDER and two copies of Motion and Affidavit for Leave to Proceed Pursuant to 28 U.S.C. §1915 and Complaint** to the above-named individuals on 2-10-06

GREGORY C. LANGHAM, CLERK

By: 

Deputy Clerk