

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO

FILED
UNITED STATES DISTRICT COURT
DENVER, COLO.

MAY 18 2006

Civil Action No. 06 - CV - 00930 - 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

STEVEN N. GROO,

Plaintiff,

v.

R. WILEY, Warden,

Defendant.

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

Steven N. Groo, a federal prisoner, has submitted an Application for a Writ of Habeas Corpus Pursuant to 28 U.S.C. § 2241. He also paid the \$5.00 filing fee. The Court has determined that the Application is deficient as described in this Order. Notwithstanding the deficiencies, the Clerk of the Court will be directed to commence a civil action.

Mr. Groo raises conditions of confinement claims in the Application. The claims raised more appropriately are dealt with in a *Bivens v. Six Unknown Named Agents of Fed. Bureau of Narcotics*, 403 U.S. 388 (1971), action, and should be submitted on a Prisoner Complaint form. Therefore, the following listed deficiencies must be cured if a Complaint is to proceed for Mr. Groo. 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. Groo'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
- (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 Payment of \$345.00 balance of the \$350.00 filing fee in full if not seeking to proceed pursuant to 28 U.S.C. § 1915

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
- (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 instant action is construed as a ***Bivens v. Six Unknown Named Agents of Fed. Bureau of Narcotics***, 403 U.S. 388 (1971), as opposed to a 28 U.S.C. § 2241 action. It is

FURTHER ORDERED that Mr. Groo cure the deficiencies designated above **within thirty (30) days from the date of this Order**. Any papers which Mr. Groo files in response to the Order must include the civil action number on the Order. It is

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

FURTHER ORDERED that the \$5.00 filing fee submitted by Mr. Groo will be held by the Court as payment against the \$350.00 filing required for filing civil actions.

DATED at Denver, Colorado, this 15th day of May, 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 - 00930** - *BAB*

Steven N. Groo
Reg. No. 10634-081
FPC – Florence
PO Box 5000
Florence, CO 81226

I hereby certify that I have mailed a copy of the **ORDER, a receipt for the full \$5.00 filing fee 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 5-18-06

GREGORY C. LANGHAM, CLERK

By: 

Deputy Clerk