

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLORADOFILED  
UNITED STATES DISTRICT COURT  
DENVER, COLO.

JUL 20 2006

GREGORY C. LANGHAM  
CLERK

Civil Action No.

**06 - CV - 01415 - 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.)

PHILLIP J. RHOADS,

Plaintiff,

v.

H.A. RIOS, JR., Warden,

Defendant.

---

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

---

Plaintiff has submitted a Writ of Mandamus. The court has determined that the document is deficient as described in this order. He has failed either to pay the \$350.00 filing fee or to file a Prisoner's Motion and Affidavit for Leave to Proceed Pursuant to 28 U.S.C. § 1915. 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 the Plaintiff files in response to this order must include the civil action number on this order.

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

- (1)   X   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
- (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: motion is necessary only if filing fee is not paid in advance.

**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 Plaintiff cure the deficiencies designated above **within thirty (30) days from the date of this order.** Any papers which the 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 the Plaintiff, together with a copy of this order, two copies of the following forms: a Prisoner's Motion and Affidavit for Leave to Proceed Pursuant to 28 U.S.C. §1915 and a Prisoner Complaint.

It is

FURTHER ORDERED that, if the Plaintiff fails to cure the designated deficiencies **within thirty (30) days from the date of this order**, the complaint and the

action will be dismissed without further notice. The dismissal shall be without prejudice.

DATED at Denver, Colorado, this 18<sup>th</sup> day of July, 2006.

BY THE COURT:

Boyd N Boland  
BOYD N BOLAND  
United States Magistrate Judge

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLORADO

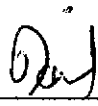
CERTIFICATE OF MAILING

Civil Action No. **06 - CV - 01415** - BNB

Phillip J. Rhoads  
Reg. No. 13260-051  
FCI  
P.O. Box 6000  
Florence, CO 81226

I hereby certify that I have mailed a copy of the **ORDER and two copies of the Prisoner's Motion and Affidavit for Leave to Proceed Pursuant to 28 U.S.C. §1915 and a Prisoner Complaint** to the above-named individuals on 7/20/06

GREGORY C. LANGHAM, CLERK

By:   
Deputy Clerk