

FILED
UNITED STATES DISTRICT COURT
DENVER, COLO.

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO

AUG 23 2006

GREGORY U. LANGHAM
CLERK

Civil Action No. **06-CV-01670-BNG**

(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.)

RUSSELL DIEHL,

Applicant,

v.

HECTOR RIOS (Warden),

Respondent.

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

Applicant has submitted an Application for a Writ of Habeas Corpus Pursuant to 28 U.S.C. § 2241 and a Petition for Habeas Corpus 28 U.S.C. § 2241. As part of the court's review pursuant to D.C.COLO.LCivR 8.2, the court has determined that the submitted document are deficient as described in this order. He has failed either to pay the \$5.00 filing fee or to file a Prisoner's Motion and Affidavit for Leave to Proceed Pursuant to 28 U.S.C. § 1915 in a Habeas Corpus Action. 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) X is not submitted

- (2) is missing affidavit
- (3) X is missing a current certified copy of prisoner's trust fund statement
- (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) X 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 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 form: a Prisoner's Motion and Affidavit for Leave to Proceed Pursuant to 28 U.S.C. § 1915 in a Habeas Corpus Action. 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 22^d day of August, 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-01670-BNB**

Russell Diehl
Reg. No. 10845-031
USP
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 in a Habeas Corpus Action to the above-named individuals on 8/23/06

GREGORY C. LANGHAM, CLERK

By:  _____
Deputy Clerk