

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO

FILED
UNITED STATES DISTRICT COURT
DISTRICT OF COLORADO

Civil Action No. **07 - CV - 00287** *BnB* FEB - 9 2007
(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 J. LANGHAM
CLERK

HECTOR HUGO MARTINEZ JIMENEZ,

Plaintiff,

v.

C.O.D.O.C. FREMONT PRISON MISCONDUCT OFFICERS, et al.,

Defendants.

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

Plaintiff has submitted a Prisoner's Motion and Affidavit for Leave to Proceed Pursuant to 28 U.S.C. §1915 and a Prisoner Complaint. As part of the Court's review pursuant to D.C.COLO.LCivR 8.2, the Court has determined that the submitted 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 further notes that Plaintiff has incorrectly identified named Defendants in the caption of the Complaint on Page One. The caption should only include the names of Defendants and not the claims asserted against them. Plaintiff is instructed

to file a new complaint form and to correct the caption. He also is instructed to list same Defendants in both the caption on Page One and in "Section A." on Page Two.

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

- (1) ☐ 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 (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 and caption should list only names of Defendants not claims
- (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, two copies of the following form: Prisoner 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 Complaint and the action will be dismissed without further notice. The dismissal shall be without prejudice.

DATED at Denver, Colorado, this 7th day of February, 2007.

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. **07 - CV - 00287**

Hector Hugo Martinez Jimenez
Reg. No. 106871
Sterling Correctional Facility
PO Box 6000
Sterling, CO 80751

I hereby certify that I have mailed a copy of the **ORDER** and **two copies of the Prisoner Complaint** to the above-named individuals on 2-9-07

GREGORY C. LANGHAM, CLERK

By: 

Deputy Clerk