

FILED  
UNITED STATES DISTRICT COURT  
DENVER

MAR 22 2007

GREGORY C. LANDHAM  
CLERKIN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLORADO

Civil Action No. 07 - CV - 00575 - 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.)

DERRICK ADAM DAVIES,

Applicant,

v.

UNITED STATES OF AMERICA,

Respondent.

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

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Applicant has submitted an a document titled "Independent Motion Challenging In Personam Jurisdiction 'A Constitutional Requirement.'" As part of the Court's review pursuant to D.C.COLO.LCivR 8.2, the Court has determined that the submitted document is deficient as described below. Upon review of the Motion, the Court finds that Mr. Davies is challenging his state criminal conviction, that the action more properly is brought pursuant to 28 U.S.C. § 2254, and that he has failed to submit his claims on a Court-approved form. He also 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 an 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 the Order.

**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
- (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
- (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 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 the 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 forms: Prisoner's Motion and Affidavit for Leave to Proceed Pursuant to 28 U.S.C. § 1915 in a Habeas Corpus Action and an Application for a Writ of Habeas Corpus Pursuant to 28 U.S.C. § 2254. It is

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

DATED at Denver, Colorado, this 22<sup>d</sup> day of March, 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 - 00575** -BNA

Derrick A. Davies  
Doc# 131324  
Fremont Corr. Facility  
P.O. Box 999  
Canon City, CO 81215

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 and an Application for a Writ of Habeas Corpus Pursuant to 28 U.S.C. § 2254** to the above-named individuals on 3/22/07

GREGORY C. LANGHAM, CLERK

By: 

\_\_\_\_\_  
Deputy Clerk