

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLORADO

FILED  
UNITED STATES DISTRICT COURT  
DENVER, COLORADO

MAR 29 2007

Civil Action No. 07 - CV - 00617 BNB

GREGORY J. LINGHAM  
CLERK

(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.)

RICHARD LEE MARTINEZ,

Applicant,

v.

KEVIN MILYARD, and  
JOHN SUTHERS, The Attorney General of the State of Colorado,

Respondents.

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

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Applicant has submitted a Prisoner's Motion and Affidavit for Leave to Proceed Pursuant to 28 U.S.C. § 1915 in a Habeas Corpus Action, a Motion to Appoint Counsel to Represent Me in This Action, and an Application for a Writ of Habeas Corpus Pursuant to 28 U.S.C. § 2254. 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. 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)  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
- (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, 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 27<sup>th</sup> day of March, 2007.

BY THE COURT:



\_\_\_\_\_  
CRAIG B. SHAFFER  
United States Magistrate Judge

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLORADO

**CERTIFICATE OF MAILING**

Civil Action No. **07 - CV - 00617**

Richard L. Martinez  
Prisoner No. 75213  
Sterling Correctional Facility  
PO Box 6000  
Sterling, CO 80751

I hereby certify that I have mailed a copy of the **ORDER** to the above-named individuals on 3-29-07

GREGORY C. LANGHAM, CLERK

By:  \_\_\_\_\_  
Deputy Clerk