

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLORADO

**FILED**  
UNITED STATES DISTRICT COURT  
DENVER, COLORADO

APR 26 2007

Civil Action No. **07 - CV - 00855 bnb** **GREGG W. LANGHAM**  
**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.)

UNITED STATES OF AMERICA,

Plaintiff,

v.

MONTGOMERY CARL AKERS,

Defendant.

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**ORDER DIRECTING CLERK TO COMMENCE CIVIL ACTION AND  
DIRECTING DEFENDANT TO CURE DEFICIENCIES**

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Defendant has submitted a "Motion for Writ of Habeas Corpus Pursuant to 28 U.S.C. S. 2241." As part of the court's review pursuant to D.C.COLO.LCivR 8.2, the court has determined that the document is deficient as described in this order.

Defendant raises one claim challenging his conviction in the United States District Court for the District of Kansas and a second claim in which he alleges that he is being denied access to the courts in connection with his direct appeal of the District of Kansas conviction. Although Defendant has included case number 96-cr-00013-LTB in the caption of his pleading, the claims he raises are not related to his criminal case in this court. Therefore, the clerk of the court will be directed to commence a new civil action.

Defendant will be directed to cure the following if he wishes to pursue his habeas corpus claim in this action. Any papers that Defendant 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
- (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 Defendant cure the deficiencies designated above **within thirty (30) days from the date of this order.** Any papers that Defendant 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 Defendant, 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;

Application for a Writ of Habeas Corpus Pursuant to 28 U.S.C. § 2241. It is

FURTHER ORDERED that, if Defendant fails to cure the designated deficiencies **within thirty (30) 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 24<sup>th</sup> day of April, 2007.

BY THE COURT:

  
\_\_\_\_\_  
BOYD N. BOLAND  
United States Magistrate Judge

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLORADO

**CERTIFICATE OF MAILING**

Civil Action No.

**07 - CV - 00855**

Montgomery C. Akers

Reg. No. 02866-081

ADX - Florence

PO Box 8500

Florence, CO 81226

I hereby certify that I have mailed a copy of the **ORDER** and **two copies of 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. § 2241** to the above-named individuals on 4-26-07

GREGORY C. LANGHAM, CLERK

By: \_\_\_\_\_



Deputy Clerk