

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO

FILED
UNITED STATES DISTRICT COURT
DENVER, COLORADO

OCT 12 2007

Civil Action No. **07 - CV - 02158 BNB** **GREGORY C. LANGHAM**
(The above civil action number must appear on all future papers **CLERK**
sent to the Court in this action. Failure to include this number
may result in a delay in the consideration of your claims.)

VICTOR DOMINGO GOMEZ,

Applicant,

v.

WARDEN ARELLANO, Arkansas Valley Correctional Facility,
JOHN SUTHERS, Attorney General State of Colorado,

Respondents.

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

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. 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 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.

Applicant has failed to indicate whether he intends to file a habeas corpus action pursuant to 28 U.S.C. § 2254 or 28 U.S.C. § 2241. The Clerk of the Court will be instructed to send copies of both a § 2254 Court-approved form and a § 2241 Court-approved form which are used in filing habeas corpus actions with the Court. Applicant then may determine the type of habeas corpus action he intends to file with the Court.

Any papers which Applicant files in response to this Order must include the civil action number that is printed in the caption of 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: _____.

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 Applicant cure the deficiencies designated above **within thirty days from the date of this Order**. Any papers which 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 Applicant, together with a copy of this Order, two copies of the following forms: Application for a Writ of Habeas Corpus Pursuant to 28 U.S.C. § 2254 and Application for a Writ of Habeas Corpus Pursuant to 28 U.S.C. § 2241. It is

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

DATED at Denver, Colorado, this 12th day of October, 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 - 02158**

Victor Domingo Gomez
Prisoner No. 114554
Arkansas Valley Corr. Facility
PO Box 1000 - 4-A
Crowley, CO 81034

I hereby certify that I have mailed a copy of the **ORDER** and **two copies of the Application for a Writ of Habeas Corpus Pursuant to 28 U.S.C. § 2254 and Application for a Writ of Habeas Corpus Pursuant to 28 U.S.C. § 2241** to the above-named individuals on 10/12/07

GREGORY C. LANGHAM, CLERK

By: 

Deputy Clerk