

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO

Civil Action No. 09-cv-00188-ZLW

MARTEL TAMAR SANDERS,

Applicant,

v.

B. DAVIS,

Respondent.

FILED
UNITED STATES DISTRICT COURT
DENVER, COLORADO

APR 10 2009

GREGORY C. LANGHAM
CLERK

ORDER VACATING MARCH 19, 2009,
ORDER OF DISMISSAL AND JUDGMENT

Applicant Martel Tamar Sanders is in the custody of the United States Bureau of Prisons and currently is incarcerated at the United States Penitentiary in Florence, Colorado. On March 30, 2009, Mr. Sanders filed a "Motion Requesting Reconsideration of Court's Order of Dismissal of Petitioner's Title 28 U.S.C. § 2241." In the Motion, Mr. Sanders asserts that he did not receive the January 30, 2009, Order to Cure Deficiencies until March 24, 2009. He also asserts the filing packet attached to the January 30, 2009, Order included forms that are used in filing 28 U.S.C. § 2254 actions not forms that are used in filing 28 U.S.C. 2241 actions. Mr. Sanders asks the Court to reinstate the instant action and to allow him to proceed without having to file his claims on a proper Court-approved form.

Upon review of the Certificate of Mailing attached to the January 30, 2009, Order the Court finds it is possible that 28 U.S.C. § 2254 Court-approved forms inadvertently were mailed to Mr. Sanders rather than 28 U.S.C. § 2241 Court-approved forms. Nothing Mr. Sanders has attached to the March 30, 2009, Motion, however, provides evidence that he did not receive the January 30, 2009, Order to Cure or the Court-approved forms until March 24, 2009, and did not have sufficient time to advise the Court of the alleged inadvertent error. Based on the attachment that includes Mr. Sanders address and a notation by a caseworker, Mr. Sanders received something on March 24, 2009, with respect to "2241." The notation does not indicate that what he received on March 24, 2009, was the January 30, 2009, Order.

Nonetheless, the Court will order the action reinstated. Mr. Sanders will have thirty days from the date of the instant Order to file his claims on a proper Court-approved form. Mr. Sanders' request to proceed without submitting his claims on a Court-approved form used in filing 28 U.S.C. § 2241 actions is denied.

Accordingly, it is

ORDERED that the Court's Order of Dismissal and the Judgment entered on March 19, 2009, are vacated. It is

FURTHER ORDERED that the case and action again are referred to Magistrate Judge Boyd N. Boland for further initial review. It is


FURTHER ORDERED that Mr. Sanders shall have thirty days from the date of the instant Order to comply with the January 30, 2009, Order. It is

FURTHER ORDERED that the Clerk of the Court shall send two copies of the Court-approved forms used in filing 28 U.S.C. § 2241 actions. It is

FURTHER ORDERED that if Mr. Sanders does not comply within the time allowed the action will be dismissed without further notice.

DATED at Denver, Colorado, this 10 day of April, 2009.

BY THE COURT:



ZITA L. WEINSHIENK, Senior Judge
United States District Court

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO

CERTIFICATE OF MAILING

Civil Action No. 09-cv-00188-BNB

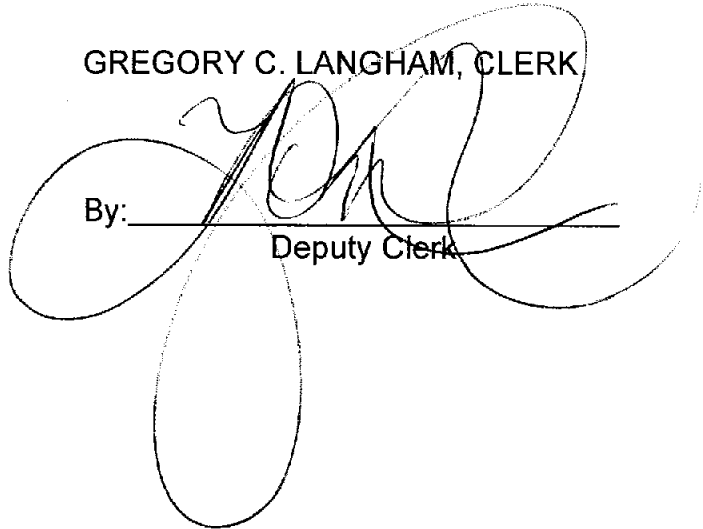
Martel Tamar Sanders
Reg. No. 39849-180
USP - Florence
PO Box 7000
Florence, CO 81226

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. § 2241** form to the above-named individuals on 4/10/09

GREGORY C. LANGHAM, CLERK

By: _____

Deputy Clerk

A large, stylized handwritten signature in black ink, written over a horizontal line. The signature is highly cursive and loops around the line. The text 'By: _____' and 'Deputy Clerk' are positioned below the line.