

FILED
 UNITED STATES DISTRICT COURT
 DENVER, COLORADO

IN THE UNITED STATES DISTRICT COURT
 FOR THE DISTRICT OF COLORADO

FEB 5 2009

Civil Action No. '09 - CV - 00237 BNB GREGORY C. 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.)

ANDERSON MONTANO,

Petitioner,

v.

WARDEN STEVE HARTLEY, Fremont Correctional Facility, Colorado Dept. of
 Corrections,
 ARISTEDES ZAVARAS, Executive Director, and
 JOHN SUTHERS, Colorado Attorney General,

Respondents.

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

Petitioner has submitted a Prisoner's Motion and Affidavit for Leave to Proceed Pursuant to 28 U.S.C. §1915, a Petition for Writ of Habeas Corpus Pursuant to 28 U.S.C.A. 2254, and a Motion to Leave to Amend 28 U.S.C.A. 2254 Habeas Corpus Petition. As part of the court's review pursuant to D.G.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. Petitioner will be directed to cure the following if he wishes to pursue his claims. Any papers which the Petitioner 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: _____.

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 Petitioner cure the deficiencies designated above **within thirty (30) days from the date of this order.** Any papers which the Petitioner 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 the Petitioner, together with a copy of this order, two copies of the following form: 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. § 2254. It is

FURTHER ORDERED that, if the Petitioner fails to cure the designated deficiencies **within thirty (30) days from the date of this order**, the petition and the action will be dismissed without further notice. The dismissal shall be without prejudice.

DATED at Denver, Colorado, this 3^d day of February, 2009.

BY THE COURT:



BOYD N. BOLAND
United States Magistrate Judge

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO

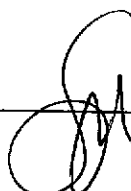
CERTIFICATE OF MAILING

Civil Action No. **'09 - CV - 00237**

Anderson Montano
Prisoner No. 122786
Fremont Corr. Facility
PO Box 999
Cañon City, CO 81215- 0999

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 Application for a Writ of Habeas Corpus Pursuant to 28 U.S.C. § 2254** forms to the above-named individuals on 2/5/09

GREGORY C. LANGHAM, CLERK

By:  Deputy Clerk