

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLORADO**

Civil Action No. 09-cv-00429-BNB

ERNEST BRIM, aka BERNARD HORNE,

Petitioner,

v.

ARISTEDES ZAVARAS, CDOC Executive Director,  
STEVE HARTLEY, FCF Warden, and  
BROWN AND SMITH, FCF Law Librarians,

Respondents.

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

MAR 04 2009

GREGORY C. LANGHAM  
CLERK

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**ORDER DIRECTING PETITIONER TO CURE DEFICIENCY**

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Petitioner, Ernest Brim, also known as Bernard Horne, has submitted *pro se* a motion titled "Ex Parte Motion for Temporary Restraining Order in Writ of Habeas Corpus Relief Pursuant to 28 U.S.C. § 2241 et sq., 2254." He also has paid the \$5.00 filing fee for 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 motion is deficient as described in this order. Petitioner will be directed to cure the following if he wishes to pursue his claims. Any papers that 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 Petitioner cure the deficiency designated above **within thirty (30) days from the date of this order**. Any papers that 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 Petitioner, together with a copy of this order, two copies of the following form to be used in submitting a 28 U.S.C. § 2254 application: Application for Writ of Habeas Corpus Pursuant to 28 U.S.C. § 2254. It is

FURTHER ORDERED that, if Petitioner fails to cure the designated deficiency **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 March 4, 2009, at Denver, Colorado.

BY THE COURT:

s/ 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-00429-BNB

Ernest Brim  
aka Bernard Horne  
Prisoner No. 49613  
Fremont Correctional Facility  
P.O. Box 999  
Cañon City, CO 81215-0999

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** form to the above-named individuals on 3/4/09

GREGORY C. LANGHAM, CLERK

By: 

Deputy Clerk