

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO

FILED
UNITED STATES DISTRICT COURT
DENVER, COLORADO

APR 17 2009

GREGORY C. LANGHAM
CLERK

Civil Action No. 09 - CV - 00887 BnB

(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.)

JAVIER MUNOZ-MARQUEZ,

Applicant,

v.

J. M. WILNER, Warden, FCI - Florence,

Respondent.

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

Applicant has submitted an Application for a Writ of Habeas Corpus Pursuant to 28 U.S.C. § 2241. He has failed either to pay the \$5.00 filing fee or to file 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 8.1, 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. Any papers which the Applicant files in response to this order must include the civil action number on this order.

Motion and Affidavit for Leave to Proceed Pursuant to 28 U.S.C. § 1915:

- (1) X is not submitted
(2) — is not on proper form (must use the court's current form)

- (3) ☐ is missing original signature by Applicant
- (4) ☐ is missing affidavit
- (5) ☐ affidavit is incomplete
- (6) ☐ affidavit is not notarized or is not properly notarized
- (7) ☐ names in caption do not match names in caption of complaint, petition or 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 or Petition:

- (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 Applicant
- (13) ☐ is incomplete
- (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 Applicant cure the deficiencies designated above **within thirty (30) days from the date of this order.** Any papers which the 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 the Applicant, together with a copy of this order, 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. It is

FURTHER ORDERED that, if the Applicant fails to cure the designated deficiencies **within thirty (30) days from the date of this order,** the application and

the action will be dismissed without further notice. The dismissal shall be without prejudice.

DATED at Denver, Colorado, this 15th day of April, 2009.

BY THE COURT:

Boyd N Boland
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 - 00887**

Javier Munoz-Marquez
Reg No. 31811-013
FCI - Florence
P.O. Box 6000
Florence, CO 81226-6000

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 form** to the above-named individuals on 4/17/09

GREGORY C. LANGHAM, CLERK

By:  _____
Deputy Clerk