

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO

FILED
UNITED STATES DISTRICT COURT
DENVER, COLORADO

MAY 6 - 2009

GREGORY C. LANGHAM
CLERK

Civil Action No. 09 - CV - 01053 Bnz
(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.)

FERNANDO L. GUTIERREZ,

Plaintiff,

v.

DEPUTY GONZALES,
DEPUTY STURTAVANT,
LT. TOTH,
PUEBLO COUNTY SHERIFF'S OFFICE, and
PUEBLO COUNTY,

Defendants.

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

Plaintiff has submitted a Prisoner's Motion and Affidavit for Leave to Proceed Pursuant to 28 U.S.C. §1915, a Motion to: File Without Payment of Filing Fee [or] Appoint and Pay Interpreter Costs and Supporting Financial Affidavit, and a Prisoner Complaint. As part of the court's review pursuant to D.C.COLO.LCivR 8.2, the court has determined that the submitted documents are deficient as described in this order. Notwithstanding the deficiency, the clerk of the court will be directed to commence a civil action. Plaintiff will be directed to cure the following if he wishes to pursue his claims. Any papers which the Plaintiff 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 (Account statement submitted is not certified by a prison official and is not current.)
- (4) is missing certificate showing current balance in prison account
- (5) is missing required financial information
- (6) is missing an original signature by the prisoner
- (7) is not on proper form (must use the court's current form)
- (8) names in caption do not match names in caption of complaint, petition or habeas application
- (9) An original and a copy have not been received by the court.
Only an original has been received.
- (10) other: _____

Complaint, Petition or Application:

- (11) is not submitted
- (12) is not on proper form (must use the court's current form)
- (13) is missing an original signature by the prisoner
- (14) is missing page nos. _____
- (15) uses et al. instead of listing all parties in caption
- (16) An original and a copy have not been received by the court. Only an original has been received.
- (17) Sufficient copies to serve each defendant/respondent have not been received by the court.
- (18) names in caption do not match names in text
- (19) other _____

Accordingly, it is

ORDERED that the clerk of the court commence a civil action in this matter. It is

FURTHER ORDERED that the Plaintiff cure the deficiency designated above **within thirty (30) days from the date of this order.** Any papers which the Plaintiff files in response to this order must include the civil action number on this order. It is

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

DATED at Denver, Colorado, this 4th day of May, 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 - 01053**

Fernando L. Gutierrez
Prisoner No. 108809
Pueblo County Sheriff Department
909 Court Street
Pueblo, Co 81003

I hereby certify that I have mailed a copy of the **ORDER** to the above-named individuals on 5/6/09

GREGORY C. LANGHAM, CLERK

By: 

Deputy Clerk