

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLORADO

09CV01628

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

JUL 9 - 2009

GREGORY C. LANGHAM  
CLERK

Civil Action No. \_\_\_\_\_

*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.)

FRED RAYNEL LUCERO,

Applicant,

v.

KEVIN MILYARD, Warden, and  
THE ATTORNEY GENERAL OF THE STATE OF COLORADO,

Respondents.

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

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Applicant has submitted an Application for a Writ of Habeas Corpus Pursuant to 28 U.S.C. § 2254. 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 8.2, 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. Applicant will be directed to cure the following if he wishes to pursue his claims. Any papers that the Applicant 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 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: Motion is necessary only if filing fee is not paid in advance.

**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 Applicant cure the deficiencies designated above **within thirty (30) days from the date of this order.** Any papers that 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, 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. 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 8<sup>th</sup> day of July, 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. **09CV01628**

Fred Raynel Lucero  
Prisoner No. 91725  
Sterling Correctional Facility  
PO Box 6000  
Sterling, CO 80751

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** to the above-named individuals on 7/9/09

GREGORY C. LANGHAM, CLERK

By:  \_\_\_\_\_  
Deputy Clerk