

FILED
UNITED STATES DISTRICT COURT
DENVER, COLORADO

AUG 26 2009

GREGORY C. LANGHAM
CLERKIN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO

09CV02020

BhB

Civil Action No. _____

(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.)

JERALENE ANN MARISCO DERRER,

Petitioner,

v.

[NO RESPONDENT NAMED],

Respondent.

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

Petitioner has submitted to the court two untitled documents apparently seeking judicial relief. Both documents are largely incomprehensible. As part of the court's review pursuant to D.C.COLO.LCivR 8.2, the court has determined that the documents are deficient as described in this order. Notwithstanding the deficiencies, the clerk of the court will be directed to commence a civil action. Construing the documents liberally, it appears that Petitioner primarily is complaining about various incidents that have extended the length of her prison sentence. Because the alleged incidents relate to the execution of her prison sentence, the court will construe this action as a habeas corpus action pursuant to 28 U.S.C. § 2241. Petitioner will be directed to cure the following if she wishes to pursue any 28 U.S.C. § 2241 habeas corpus claims in this action.

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: motion is necessary only if \$5.00 filing fee is not paid in advance.

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: Petitioner must write on only one side of each page.

Although the Court has construed this action as a habeas corpus action pursuant to 28 U.S.C. § 2241, the court notes that Petitioner also makes allegations in the two untitled documents that relate to her original conviction and sentence and the conditions of her confinement. Petitioner is advised that she may not raise any claims based on those allegations in this action. If Petitioner wishes to pursue any claims challenging the validity of her original conviction or sentence, she must file a separate habeas corpus action pursuant to 28 U.S.C. § 2254. If Petitioner wishes to pursue any claims based on the conditions of her confinement, she must file a separate civil action using the court's Prisoner Complaint form. Petitioner may obtain the necessary forms

for any additional actions she wishes to initiate from the clerk of the court. Accordingly, it is

ORDERED that the clerk of the court commence a civil action in this matter. It is FURTHER ORDERED that Petitioner cure the deficiencies designated above **within thirty (30) days from the date of this order**. Any papers that Petitioner intends to file in this action 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 forms: 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. § 2241. It is

FURTHER ORDERED that, if Petitioner fails to cure the designated deficiencies **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 at Denver, Colorado, this 26th day of August, 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.

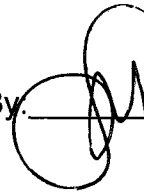
09CV02020

Jeralene Ann Marisco Derrer
Prisoner No. 118532
La Vista Corr. Facility
1401 W. 17th St.
Pueblo, CO 81003

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. § 2241 forms** to the above-named individuals on 8/24/09

GREGORY C. LANGHAM, CLERK

By.



Deputy Clerk