

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO

FILED
UNITED STATES DISTRICT COURT
DENVER, COLORADO

AUG 26 2009

Civil Action No. 09CV02022 *BnB*

GREGORY C. LANGHAM
CLERK

(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.)

JAY A. SCHELL,

Plaintiff,

v.

[NO DEFENDANT NAMED],

Defendant.

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

Plaintiff is a prisoner in the custody of the Colorado Department of Corrections at the Limon Correctional Facility in Limon, Colorado. Plaintiff has submitted to the court a "Motion for Request for Extension of Timeline to File 28 USC 1915" and a "Motion for Request to Extend 2[-]Year Limit on Filing 28 USC 1915." Plaintiff has failed to file a Prisoner Complaint and he has failed either to pay the \$350.00 filing fee or to file a Prisoner's Motion and Affidavit for Leave to Proceed Pursuant to 28 U.S.C. § 1915. As part of the court's review pursuant to D.C.COLO.LCivR 8.2, the court has determined that the motions are deficient as described in this order. Notwithstanding the deficiencies, 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 in this action. Any papers that 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
- (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 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: _____.

Accordingly, it is

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

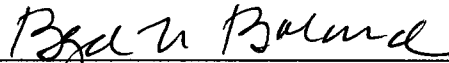
FURTHER ORDERED that Plaintiff cure the deficiencies designated above **within thirty (30) days from the date of this order.** Any papers that Plaintiff files in this action must include the civil action number on this order. It is

FURTHER ORDERED that the clerk of the court mail to Plaintiff, 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; Prisoner Complaint. It is

FURTHER ORDERED that, if Plaintiff 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. **09CV02022**

Jay A. Schell
Reg No. 122066
Limon Correctional Facility
49030 State Hwy. 71 - Unit 1-A 2-11
Limon, CO 80826

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 and Prisoner Complaint forms** to the above-named individuals on 8/24/09

GREGORY C. LANGHAM, CLERK

By:  Deputy Clerk