

FILED
 UNITED STATES DISTRICT COURT
 DENVER, COLORADO

IN THE UNITED STATES DISTRICT COURT
 FOR THE DISTRICT OF COLORADO

OCT 23 2009

GREGORY C. LANGHAM
 CLERK

Civil Action No. 09CV02495 *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.)

STEVEN DOUGLAS McCARY,

Applicant, named as Defendant,

v.

PEOPLE OF THE STATE OF COLORADO,

Respondent, named as Plaintiff.

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

Applicant has submitted a "Petition to Proceed In Forma Pauperis Pursuant to Fed. R. Crim. P. 44" and a document titled "Fed. R. Civil P. 60(b) Relief from Judgment" in which he appears to challenge the validity of his state court conviction. 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 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 for habeas corpus actions)
 - (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 28 U.S.C. § 2254 habeas corpus form because claims asserted challenge validity of conviction)
- (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 Applicant cure the deficiencies designated above **within thirty (30) days from the date of this order.** Any papers that 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 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; Application for a Writ of Habeas Corpus Pursuant to 28 U.S.C. § 2254. It is

FURTHER ORDERED that, if Applicant 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 19th day of October, 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. ,

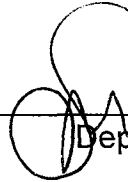
09CV02495

Steven Douglas McCary
Prisoner No. 60886
Fort Lyon Corr. Facility
P.O. Box 1000 – Unit 5 Floor 3
Fort Lyon, CO 81038-1000

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. § 2254 forms** to the above-named individuals on 10/23/09

GREGORY C. LANGHAM, CLERK

By: _____



Deputy Clerk