

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

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLORADO

JAN 7 - 2010

**10CV00024**

GREGORY C. LANGHAM  
CLERK

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

*BmB*

(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.)

GEORGE BANKS,

Plaintiff,

v.

CAPTAIN HODAK,  
WARDEN RENE GARCIA, and  
DOCTOR IPPOLITO,

Defendants.

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

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Plaintiff has submitted a letter to the court and a document titled "Affidavit of Facts in Support of a Writ of Mandamus." Although the documents include a criminal case number, the criminal case number apparently refers to a criminal case in some other court. In addition, the relief Plaintiff seeks relates to the conditions of his confinement and not his criminal case. Therefore, the clerk of the court will be directed to commence a civil 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. 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
- (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 Plaintiff cure the deficiencies 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 the clerk of the court mail to the 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 and Prisoner Complaint.

It is

FURTHER ORDERED that, if the 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.

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DATED at Denver, Colorado, this 5<sup>th</sup> day of January, 2010.

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.

10CV00024

George Banks

Prisoner No. 31885-044

FCI - Englewood

9595 W. Quincy Ave.

Littleton, CO 80123

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 1/7/10

GREGORY C. LANGHAM, CLERK

By. 

Deputy Clerk