

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLORADO**

Civil Action No. 10-cv-00739-BNB

WAYNE BRUNSILIUS,

Applicant, named as Defendant,

v.

BRIGHAM SLOAN, Warden,

Respondent.

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

APR 23 2010

GREGORY C. LANGHAM  
CLERK

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**ORDER DIRECTING APPLICANT TO CURE DEFICIENCY**

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Applicant has submitted a "Complaint and Petition for Removal of Case Pursuant to Title 28 U.S.C. § 1441 (a), (b), (c), (e1) to Federal Jurisdiction," and a "Motion to Proceed Without Payment." The court has determined that Applicant's claims properly are asserted pursuant to 28 U.S.C. § 2254 because he is challenging a Colorado 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 document is 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 which 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 \$5.00 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 which 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 forms: 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. 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 action will be dismissed without further notice. The dismissal shall be without prejudice.

DATED April 23, 2010, at Denver, Colorado.

BY THE COURT:

s/ Boyd N. Boland  
United States Magistrate Judge

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLORADO

**CERTIFICATE OF MAILING**

Civil Action No. 10-cv-00739-BNB

Wayne Brunsilius  
Prisoner No. 65458  
Kit Carson Corr. Center  
PO Box 2000  
Burlington, CO 80807

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 4/23/10

GREGORY C. LANGHAM, CLERK

By: 

Deputy Clerk