

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO

FILED
UNITED STATES DISTRICT COURT
DENVER, COLORADO

JUN 29 2010

GREGORY C. LANGHAM
CLERK

Civil Action No. 10 - CV - 01533 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.)

JOHN J. McCARTHY,

Petitioner,

v.

WARDEN, Federal Detention Center,

Respondent.

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

Petitioner has submitted a "Petition for an Application for Coram Nobis Relief or Writ of Audita Querela Relief." He has failed either to pay the \$5.00 filing fee or to file a Prisoner's Motion and Affidavit for Leave to Proceed Pursuant to 28 U.S.C. § 1915 in a Habeas Corpus Action. 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. Petitioner will be directed to cure the following if he wishes to pursue his claims. Any papers that Petitioner files in response to this order must include the civil action number on this order.

28 U.S.C. § 1915 Motion and Affidavit:

- (1) xx 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) xx 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) xx 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 Petitioner cure the deficiencies designated above **within thirty (30) days from the date of this order.** Any papers that Petitioner files in response to this order must include the civil action number on this order. It is

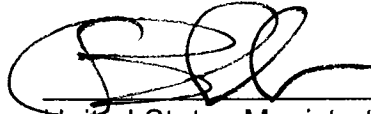
FURTHER ORDERED that the clerk of the court mail to Petitioner, together with a copy of this order, two copies of the following forms: Prisoner's Motion and Affidavit for Leave to Proceed Pursuant to 28 U.S.C. § 1915 in a Habeas Corpus Action. It is

FURTHER ORDERED that, if Petitioner fails to cure the designated deficiencies **within thirty (30) days from the date of this order,** the petition and the action will be

dismissed without further notice. The dismissal shall be without prejudice.

DATED at Denver, Colorado, this 28th day of June, 2010.

BY THE COURT:



United States Magistrate Judge

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO

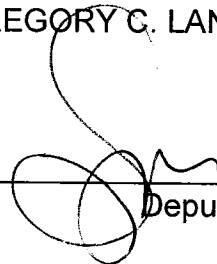
CERTIFICATE OF MAILING

Civil Action No. '10 - CV - 01533

John J. McCarthy
Reg. No. 38051-066
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** in a **Habeas Corpus Action** to the above-named individuals on 6/29/10

GREGORY C. LANGHAM, CLERK

By:  _____
Deputy Clerk