

FILED
 UNITED STATES DISTRICT COURT
 DENVER, COLORADO

NOV 3 - 2010

GREGORY C. LANGHAM
 CLERK

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

Civil Action No. '10 - CV - 02678 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.)

PHILIP D. EFFLAND,

Applicant,

v.

PEOPLE OF THE STATE OF COLORADO, d/b/a PEOPLE OF THE STATE OF COLORADO,
 COLORADO DEPARTMENT OF CORRECTIONS,
 ARISTEDES ZAVARAS, Executive Director,
 CORRECTIONS CORPORATION OF AMERICA, d/b/a KIT CARSON
 CORRECTIONAL CENTER,
 AVRIL CHAPMAN, Warden, Trustee-in-Fiction,

Respondents.

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

Applicant has submitted a "Natural Right to Proceed Without Costs or Fees Writ of Mandate," a "Motion for Removal From State to Federal Jurisdiction," and two documents titled "Subpoena Duces Tecum" each with an accompanying "Motion in Support of Issuance of Subpoena Duces Tecum." 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 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 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: **The only proper Respondent in a habeas corpus action is Applicant's current warden, superintendent, jailer or other custodian.**

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 at Denver, Colorado, this 3^d day of November, 2010.

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. **'10 - CV - 02678**

Philip D. Effland
Prisoner No. 132470
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 11/3/10

GREGORY C. LANGHAM, CLERK

By: _____



Deputy Clerk