

**UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF ARKANSAS
HELENA DIVISION**

**GERARDO HERNANDEZ,
REG. #11205-031**

PLAINTIFF

v.

CASE NO. 2:09cv00134 BSM/HLJ

TIMOTHY OUTLAW, et al.

DEFENDANTS

ORDER

Plaintiff Gerardo Hernandez moves for reconsideration and for leave to appeal *in forma pauperis* [Doc. Nos. 8, 10]. The motion for reconsideration is granted and the motion for leave to appeal *in forma pauperis* is denied.

Plaintiff moves to set aside the November 17, 2009 order dismissing his complaint. The dismissal order was granted due to plaintiff's failure to amend his complaint as directed by order dated September 18, 2009. Plaintiff asserts that he never received the order and was therefore unaware that there was a deadline to amend his complaint. Based upon these representations, plaintiff's motion for reconsideration is well-founded and should be granted.

Plaintiff's motion for reconsideration [Doc. No. 8] is therefore granted and this case is hereby re-opened. Plaintiff is ordered to amend his complaint as required by the September 18, 2009 order within thirty days of the date of this order. Failure to comply will result in the dismissal without prejudice of plaintiff's complaint, pursuant to Local Rule 5.5(c)(2).

Plaintiff's motion for leave to appeal *in forma pauperis* [Doc. No. 10] is hereby denied as moot.

IT IS SO ORDERED this 20th day of January, 2010.



UNITED STATES DISTRICT JUDGE