

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLORADO  
Judge John L. Kane

Civil Action No. **78-cv-1065-JLK**

**TERRANCE MARIONEUX, et al., ( re: Justin Rueb)**

Plaintiffs,

v.

**COLORADO STATE PENITENTIARY,**

Defendants.

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**ORDER RE DOC. 128 (Motion to Vacate Court's 1/27/10 Order)**

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Kane, J.

This closed 1978 prison civil rights action is before me on Department of Corrections inmate Justin Rueb's "Motion to Vacate the Court's 1-27-10 Order Denying [his] Fed. R. Civ. P. Rule 71 Motion as Moot and Combined Motion for Replacement of Class Counsel David Miller" (Doc. 128). The Motion is **DENIED**. As I explained in my January 27, 2010 Order Denying Rueb's previous Motion to Enforce the 1981 Consent Decree (Doc. 113), Judge Finesilver closed this case on October 18, 1990 and the case has not been reopened. Mr. Rueb's concerns must be raised in a new action, based on facts and law as they exist now, and not as they existed 29 or 32 years ago.

As a frequent filer of grievances and motions in a panoply of old prison cases, Mr. Rueb has, predictably, moved to perfect an appeal of my January 27, 2010 Order to the Tenth Circuit. *See* Motion to Proceed in Forma Pauperis (Doc. 124). I note that fellow DOC frequent filer, Matthew Tazio Redmon, has also previously moved to reopen this case and to replace class counsel (*see* Docs. 96 and 97), and has also appealed my Order (Doc. 101) denying his requests.

Like the undead,<sup>1</sup> this case carries on no matter how often its demise is reiterated.

Given the age of this case and the age of this Judge, ongoing pro se allegations of noncompliance with a 29-year-old Consent Decree in a closed case that is older than many of the DOC inmates making them constitutes an end run of procedural safeguards otherwise in place to prevent frivolous prisoner filings. The assertion that consented agreements are subject to monitoring and reopening and reexamination in perpetuity is contrary to the law of this case and turns the concept of finality on its head. Unless and until the Tenth Circuit directs otherwise, this case is and remains CLOSED, and all issues have been resolved to finality. Accordingly, I WILL ENTERTAIN NO FURTHER PRO SE FILINGS in this case, and any documents filed in contravention of this Order will be STRICKEN.

Dated March 3, 2010.

*s/John L. Kane*  
SENIOR U.S. DISTRICT JUDGE

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<sup>1</sup> The undead, or “zombies,” are creatures of fiction, voodoo and folklore who cannot be killed because they are already dead. “Zombie,” <http://en.wikipedia.org/wiki/Zombie>.