

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO

Civil Action No. 92-cv-870-JLK

JESSE MONTEZ, et al.

Plaintiffs,

-vs.-

BILL OWENS, et al.

Defendants.

Claim Number 03-443

Category: III

Claimant: Darryl L. Atteberry, #87570

Address of Claimant: 1825 East Routt Avenue, Pueblo, CO 81004

ORDER OF DISMISSAL OF SPECIAL MASTER

THIS MATTER came before the Special Master for hearing on July 17, 2009 at the Clarion Hotel, 4001 North Elizabeth Street, Pueblo, Colorado. Present was the following: Rob Huss, attorney for Defendants. Claimant did not appear for the hearing.

This matter was set for hearing initially on June 9, 2008, The hearing was going to be held at the Ft. Lyon Correctional Facility in Ft. Lyon, Colorado. Claimant was granted parole. As a result, he could not return to a DOC facility for a hearing. The notice of his hearing and subsequent orders were sent to Claimant through his parole officer. An order was issued on July 21, 2008 setting the hearing at the Otero District Court in La Junta, Colorado. The hearing notice was sent to the parole officer of Claimant. No contact was received on August 25, 2008 from Claimant or his parole officer. Claimant failed to appear and his claim was dismissed.

Claimant filed a motion requesting reinstatement of his claim. He advised that notice of the hearing had not been forwarded to him by his parole officer. The motion for reinstatement was granted.

Claimant advised that he was prohibited by his parole officer from leaving Pueblo County. As a result, the hearing was rescheduled for July 17, 2009 at the Clarion Hotel in Pueblo. Claimant did not appear for his hearing. Further, he did not contract the hotel or the office of the Special Masters to indicate that he would not be able to attend.

IT IS HEREBY ORDERED that the claim of Darryl L. Atteberry is dismissed, as Claimant failed to appear for the rescheduled hearing; and

IT IS FURTHER ORDERED that Claimant and Defendants are advised that they may file an objection to this Order pursuant to Federal Rule of Civil Procedure 53(g)(2), but said objection must be filed with the Clerk of the United States District Court, 901 19th Street, Denver, CO 80294 **on or before September 14, 2009.**

SIGNED this 21st day of July, 2009.

BY THE COURT:

/s/ Richard M. Borchers

Richard M. Borchers
Special Master