

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 X-375

Category: Untimely Filed Claim

Claimant: Gregory D. Thomas, #48283

Address of Claimant: DRDC, P.O. Box 392004, Denver, CO 80239

ORDER OF SPECIAL MASTER

THIS MATTER comes before the Special Master on the letter of Claimant to the Clerk of the Court (#4040). Claimant requests information on how to file a claim.

This case was commenced in 1992 under the Americans with Disabilities Act and Rehabilitation Act. The general allegations were that DOC had many inmates who were disabled and who were being discriminated against because of those disabilities. On August 27, 2003, Judge Nottingham approved the Remedial Plan. That document is the written settlement agreement between counsel for the class and Defendants. Article XXXII of the Remedial Plan provides for a claim process for individuals who were in DOC custody on or before August 27, 2003 and were the victims of discrimination prohibited by the ADA and Rehabilitation Act on or before that date.

It appears that Claimant is seeking help concerning an issue that may have arisen long after August 27, 2003. At the time of the issuance of this order, the controlling case law would require that this letter be forwarded to class counsel for action. *McNeil v. Guthrie*, 945 F.2d 1163 (10th Cir. 1991). Counsel for the class has argued that the Remedial Plan and the two subsequent stipulations allow claimants to seek individual relief, as Claimant is attempting to do with her letter. The jurisdictional issue has not been resolved, and no action can be taken on anything that has recently occurred. There is some question as to whether Claimant would be a member of the class.

Claimant has not filed a damage claim under Paragraph XXXII of the Remedial Plan. It would appear that Claimant was in DOC custody prior to August 27, 2003. Claimant will be

provided a claim form and information sheet. If he files a claim, Claimant will need to provide additional information before that claim may be processed. These questions are as follows:

1. During what periods of time has Claimant been in DOC custody?
2. When did Claimant become disabled?
3. When was Claimant subjected to discriminatory treatment by DOC staff and employees?
4. Why has Claimant waited to file his claim?

If Claimant does not meet the criteria of the Remedial Plan in order to file a damage claim, then the letter will be treated as a request for relief. It will be held in abeyance pending resolution of the jurisdictional issue.

IT IS HEREBY ORDERED that Claimant is granted up to and including **September 21, 2009** in which to file a claim and provide the additional information requested in this order.

SIGNED this 30th day of July, 2009.

BY THE COURT:

/s/ Richard M. Borchers

Richard M. Borchers
Special Master