

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-356

Category: Untimely Filed Claim

Claimant: Billy E. Jackson, #82325

Address of Claimant: CTCF, P.O. Box 1010, Canon City, CO 81215-1010

ORDER OF DISMISSAL OF SPECIAL MASTER

THIS MATTER comes before the Special Master on the claim form of Billy E. Jackson (Claimant). Claimant did not check any of the disability boxes on his claim form. Instead, Claimant made his own box and labeled it as "Other (Learning Disability)." In the claim form, Claimant stated that "I suffer from dyslexia the transposing of written text and letters on paper." Claimant went on to state, in part, that "Colorado correctional authorities have repeatedly refused to help me with my learning disabilities."

Since it appeared that there might not be any jurisdiction over this claim, a show cause order was issued to Claimant. A request for an extension of time was filed by Claimant and was granted. Claimant was granted up to and including August 24, 2009 in which to file a response to the show cause order.

This case was commenced in 1992 under the Americans with Disabilities Act and Rehabilitation Act. On August 27, 2003, Judge Nottingham approved the Remedial Plan. The Remedial Plan set forth four categories of disabilities; (1) mobility impairment; (2) hearing impairment; (3) vision impairment; and (4) diabetes. Other disabilities, including mental illness and learning disabilities, are not covered by the Remedial Plan.

Claimant is alleging that he has learning disabilities. He has not checked any of the four boxes on the claim form. The Remedial Plan does not include learning disabilities. There is no jurisdiction over this claim because it does not allege a disability covered by the Remedial Plan.

The ADA would cover learning disabilities. Claimant may commence his own lawsuit under the ADA and Rehabilitation Act. Claimant cannot pursue his claim in this case.

IT IS HEREBY ORDERED that Claimant's damage claim under Article XXXII of the Remedial Plan is dismissed for lack of jurisdiction, as learning disabilities are not covered by the Remedial Plan; and

IT IS FURTHER ORDERED that Claimant is not precluded from filing a separate lawsuit under the ADA for learning disabilities; 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 November 2, 2009.**

SIGNED this 28th day of August, 2009.

BY THE COURT:

/s/ Richard M. Borchers

Richard M. Borchers
Special Master