

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 RITTER, et al.

Defendants.

Claim Number X-388

Category: Untimely Filed Claim

Claimant: Mario Primavera, #133502

Address of Claimant: FLCF, P.O. Box 1000, Ft. Lyon, CO 81038-1000

ORDER OF SPECIAL MASTER

THIS MATTER comes before the Special Master on the letter and documents filed on behalf of Mario Primavera. (#4238). The allegations are that Mr. Primavera is disabled with serious health conditions.

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 may be seeking help concerning issues 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 these documents 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 his motion. The jurisdictional issue has not been resolved, and no action can be taken on anything that has recently occurred.

Claimant has not filed a damage claim under Paragraph XXXII of the Remedial Plan.

Claimant will be provided a revised claim form and information sheet. If Claimant does not meet the criteria of the Remedial Plan in order to file a damage claim, then the motion will be treated as a request for relief. A letter from a fellow inmate will not suffice as a claim. An individual claim form must be filed.

IT IS HEREBY ORDERED that Claimant is granted up to and including **March 1, 2010** in which to file a claim.

SIGNED this 15th day of January, 2010.

BY THE COURT:]

/s/ Richard M. Borchers

Richard M. Borchers
Special Master