

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-470

Category: Untimely Filed Claim

Claimant: Charles J. Stout, #113027

Address of Claimant: FCF, P.O. Box 999, Canon City, CO 81215-0999

ORDER OF DISMISSAL OF SPECIAL MASTER

THIS MATTER comes before the Special Master on his own motion. The Special Master issued an order to show cause to Claimant since it appeared that Claimant was not diagnosed as diabetic until 2005. Claimant responded to the motion to show cause. He requested appointment of an independent doctor for a second opinion.

There is no basis in the Remedial Plan or under federal law for appointment of an expert for Claimant. More importantly, the motion filed by Claimant does not deal with the main issue in the show cause order.

Judge Kane issued an order on March 23, 2010 that controls this claim, as well as others. Judge Kane has ruled that a claimant must show that he was in DOC custody and disabled on or before August 27, 2003. Claimant has alleged that he became disabled in 2005. Judge Kane ruled on March 23, 2010 that the only individuals who could file a claim were those in DOC custody on or before August 27, 2003 and those individuals had to be disabled, as defined by the Remedial Plan, on or before that date.

Based upon his own statement, Claimant was diagnosed as diabetic in 2005. There is no jurisdiction over this claim, and it will be dismissed.

IT IS HEREBY ORDERED that the claim of Charles J. Stout is dismissed, as Claimant was

not diagnosed as having diabetes until 2005; and

IT IS FURTHER ORDERED that a copy of Claimant's claim will be provided to class counsel for such action as may be deemed appropriate; and

IT IS FURTHER ORDERED that Claimant, Defendants and class counsel 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 October 25, 2010.**

SIGNED this 30th day of July, 2010.

BY THE COURT:

/s/ Richard M. Borchers

Richard M. Borchers
Special Master