

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO

Civil Action No. 92-CV-870-JLK

JESSE (JESUS) MONTEZ, et al.,

Plaintiffs,

-vs.-

BILL OWENS, et al.,

Defendants.

Claim Number: 03-438

Category III

Claimant: Albert Joel Abeyta, #119057

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

ORDER OF SPECIAL MASTER

THIS MATTER comes before the Special Master on Claimant's letter to Judge Kane. The letter was received on September 1, 2012. The letter has been referred to the undersigned for action. This letter will be treated as a new claim under Article XXXII of the Remedial Plan.

Claimant previously filed a claim pursuant to Article XXXII of the Remedial Plan. That claim was dismissed on January 16, 2008, as Claimant had come into DOC custody after August 27, 2003.

Judge Kane ruled on March 23, 2010 that the Remedial Plan does not provide any basis for accepting claims or motions from inmates who were not in DOC custody on or before August 27, 2003 and the victim of discrimination under the ADA on or before that date. A copy of that order was provided previously to Claimant. The Special Master will refer this matter to class counsel pursuant to *McNeil v. Guthrie*, 945 F.2d 1163 (10th Cir. 1991).

Claimant does retain the right to file his own lawsuit with the Court. He may not pursue another claim for damages nor file any motions for relief in this case. The Special Master has no discretion under Judge Kane's order and must dismiss the new claim form.

IT IS HEREBY ORDERED that the letter of Albert Joel Abeyta, being treated as new claim and motion, is dismissed; 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 29, 2012.**

SIGNED this 5th day of September, 2010.

BY THE COURT:

/s/ Richard M. Borchers

Richard M. Borchers
Special Master