

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO

Civil Action No. 08-cv-02547-BNB

JOHN WISE,

Applicant,

v.

THE PEOPLE OF THE STATE OF COLORADO,

Respondent.

FILED
UNITED STATES DISTRICT COURT
DENVER, COLORADO

JAN 08 2009

GREGORY C. LANGHAM
CLERK

ORDER OF DISMISSAL

Applicant John Wise is a prisoner in the custody of the Colorado Department of Corrections at the Sterling, Colorado, Correctional Facility. Mr. Wise initiated this action by filing a pleading titled, "Petitioner's Motion for Extension of Time to File his Writ of Habeas Corpus due to Justifiable Excuse." On November 21, 2008, Magistrate Judge Boyd N. Boland entered an order directing the Clerk of the Court to commence a civil action and instructing Mr. Wise to cure certain deficiencies if he wished to pursue his claims. Magistrate Judge Boland specifically ordered Mr. Wise to file an Application for a Writ of Habeas Corpus Pursuant to 28 U.S.C. § 2254 and to submit a Prisoner's Motion and Affidavit for Leave to Proceed Pursuant to 28 U.S.C. § 1915 in a Habeas Action.

Mr. Wise now has failed to cure the deficiencies as directed. The Court, therefore, will dismiss the action without prejudice. To the extent that Mr. Wise is

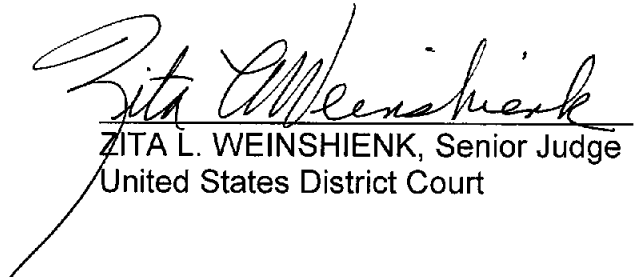
asking this Court to stay the instant action while he exhausts his state court remedies, the Court will deny the request. Accordingly, it is

ORDERED that the Application is denied and the action is dismissed without prejudice for failure to cure the deficiencies. It is

FURTHER ORDERED that Applicant's request to stay the action while he exhausts his state court remedies is denied.

DATED at Denver, Colorado, this 7 day of Jan, 2008.

BY THE COURT:


ZITA L. WEINSHIENK, Senior Judge
United States District Court

IN THE UNITED STATES DISTRICT COURT
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CERTIFICATE OF MAILING

Civil Action No. 08-cv-02547-BNB

John Wise
Prisoner No. 123988
Sterling Correctional Facility
PO Box 6000
Unit 3-A-207
Sterling, CO 80751

I hereby certify that I have mailed a copy of the **ORDER AND JUDGMENT** to the
above-named individuals on 1/8/09

GREGORY C. LANGHAM, CLERK

By: 

Deputy Clerk