

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLORADO

Civil Action No. 08-cv-02572-CBS

MONTGOMERY CARL AKERS,

Plaintiff,

v.

ZITA L. WEINSHIENK,  
BOYD N. BOLAND,  
ROBERT M. BLACKBURN,  
RON WILEY,  
JACK FOX,  
CHRISTOPHER SYNSVOLL,  
DIANA J. CRIST,  
MICHELLE BOND,  
WENDY HEIM,  
RICK MARTINEZ,  
C/O ROY,  
C/O HERMAN,  
MARK COLLINS,  
TENA SUDLOW, and  
GEORGE KNOX,

Defendants.

FILED  
UNITED STATES DISTRICT COURT  
DENVER, COLORADO

SEP - 9 2009

GREGORY C. LANGHAM  
CLERK

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ORDER OF DISMISSAL

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Plaintiff Montgomery Carl Akers initiated this action by submitting to the Court *pro se* a Prisoner Complaint. On November 25, 2008, Senior Judge Zita L. Weinshienk entered an order dismissing this action because Mr. Akers failed to comply with a sanction order that restricts his ability to file *pro se* actions in this Court. Judge Weinshienk's order was reversed by the United States Court of Appeals for the Tenth Circuit and the case was remanded to this Court for reassignment to a judge who is not

named as a party in the complaint. The Tenth Circuit did not address the issue of whether Mr. Akers had complied with the sanction order. In an order filed on September 3, 2009, Judge Weinsienk entered an order reinstating this action and reassigning the case to the *pro se* docket. For the reasons stated below, the complaint and the action will be dismissed.

As noted above, Mr. Akers is subject to a sanction order that restricts his ability to file *pro se* actions in this court. *See Akers v. Sandoval*, No. 94-cv-02445-LTB (D. Colo. June 20, 1995); *aff'd*, 100 F.3d 967 (10<sup>th</sup> Cir. 1996). In 94-cv-02445-LTB, Mr. Akers was

enjoined and prohibited from initiating any civil action in the United States District Court for the District of Colorado without representation by an attorney licensed to practice in the State of Colorado or duly admitted to practice in the United States District Court for the District of Colorado unless he first obtains leave of court to proceed *pro se*.

*Id.* at 3. Mr. Akers is not represented by an attorney in this action and he has not obtained leave of court to proceed *pro se*. In fact, Mr. Akers has not even filed a motion seeking leave to proceed *pro se*. Therefore, the complaint will be dismissed for failure to comply with the sanction order in 94-cv-02445-LTB. Accordingly, it is

ORDERED that the complaint and the action are dismissed without prejudice for failure to comply with the sanction order entered in 94-cv-02445-LTB that restricts Plaintiff's ability to file *pro se* actions in this Court.

DATED at Denver, Colorado, this 9th day of September, 2009.

BY THE COURT:

S/ Wiley Y. Daniel

WILEY Y. DANIEL, Chief Judge  
United States District Court

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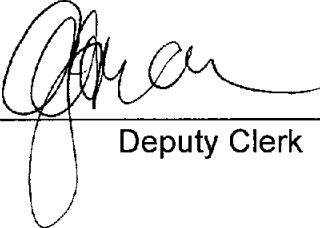
**CERTIFICATE OF MAILING**

Civil Action No. 08-cv-02572-CBS

Montgomery Carl Akers  
Reg. No. 02866-081  
ADX - Florence  
PO Box 8500  
Florence, CO 81226

I hereby certify that I have mailed a copy of the **ORDER AND JUDGMENT** to the  
above-named individuals on 9/09/09

GREGORY C. LANGHAM, CLERK

By:   
Deputy Clerk