

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO

Civil Action No. 08-cv-02719-BNB

CÉSAR TENE GUTIERREZ,

Plaintiff,

v.

JULIA RAMOS, Manager, and
VALLEY PARK APARTMENTS,

Defendants.

FILED
UNITED STATES DISTRICT COURT
DISTRICT OF COLORADO

APR 01 2009

GREGORY C. LANGHAM
CLERK

ORDER OF DISMISSAL

At the time Plaintiff César Tene Gutierrez filed the instant action, he was detained at the Denver County Jail in Denver, Colorado. On January 15, 2009, Magistrate Judge Boyd N. Boland entered an order granting Mr. Gutierrez's 28 U.S.C. § 1915 Motion. The January 15, 2009, Order requires Mr. Gutierrez to pay the full amount of the \$350.00 filing fee in installments and directs him either to pay an initial partial filing fee of \$22.00 within thirty days or to show cause why he has no assets and no means to pay the initial fee by filing a current certified copy of his trust fund account statement. The Order warns Mr. Gutierrez that if he fails to have the initial partial filing fee sent to the Clerk of the Court by the designated deadline or to show cause why he has no assets and no means by which to pay the initial fee the Complaint would be dismissed without further notice.

On January 28, 2009, the Court inadvertently dismissed the action. Subsequently, on February 12, 2009, the January 28, 2009, Order was vacated and the case was reinstated. Mr. Gutierrez was given an additional thirty days to comply with

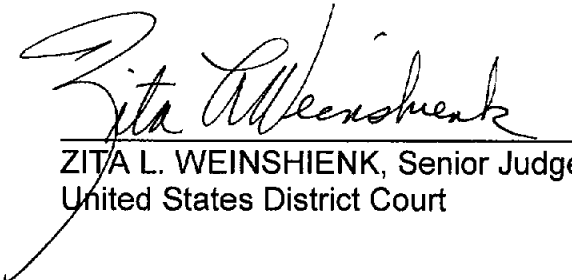
the January 15, 2009, Order. Mr. Gutierrez now has failed either to pay the initial partial filing fee within the time allowed or to show cause why he has no assets and no means to pay the designated fee.

The Court notes that a February 19, 2009, Minute Order sent to Mr. Gutierrez at the address he had provided was returned to the Court on February 27, 2009, with the envelope in which the Minute Order was sent to Mr. Gutierrez marked as, "Return to Sender Not Deliverable as Addressed Unable to Forward." Pursuant to Rule 10.1M. of the Local Rules of Practice of the United States District Court for the District of Colorado-Civil, a party must file a notice of a new address within ten days of any change of address. Nonetheless, Mr. Gutierrez now has failed to communicate with the Court, and as a result he has failed to cure the deficiencies within the time allowed. Accordingly, it is

ORDERED that the Prisoner Complaint and the action are dismissed without prejudice for Mr. Gutierrez's failure either to pay an initial partial filing fee of \$22.00 or to show cause why he has no assets and no means to pay the designated fee within the time allowed.

DATED at Denver, Colorado, this 1 day of April, 2009.

BY THE COURT:


ZITA L. WEINSHIENK, Senior Judge
United States District Court

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO

CERTIFICATE OF MAILING

Civil Action No. 08-cv-02719-BNB

Cesar Tene Gutierrez
Prisoner No. 1609402
Denver County Jail
PO Box 1108
Denver, CO 80201

I hereby certify that I have mailed a copy of the **ORDER AND JUDGMENT** to the above-named individuals on 4/1/09

GREGORY C. LANGHAM, CLERK

By 

Deputy Clerk