

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
DENVER, COLORADO
JAN 28 2009
GREGORY C. LANGHAM
CLERK

ORDER OF DISMISSAL

Plaintiff César Tene Gutierrez currently is detained at the Denver County Jail in Denver, Colorado. On December 10, 2008, Plaintiff submitted to the Court a *pro se* Prisoner Complaint pursuant to 42 U.S.C. § 1983. He also filed a Prisoner's Motion and Affidavit for Leave to Proceed Pursuant to 28 U.S.C. § 1915.

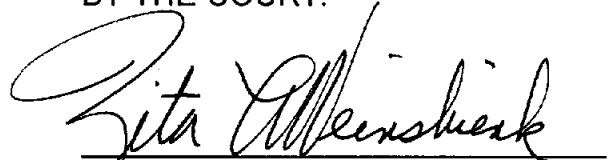
On December 15, 2008, Magistrate Judge Boyd N. Boland entered an order granting the § 1915 Motion. The December 15, 2008, Order requires Plaintiff to pay the full amount of the \$350.00 filing fee in installments and directs him to pay an initial partial filing fee of \$22.00 within thirty days or to 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 Plaintiff 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.

Plaintiff now has failed either to pay the initial partial filing fee within the time allowed, as designated in the December 15, 2008, Order, or to communicate with the Court in any way. Accordingly, it is

ORDERED that the Prisoner Complaint and the action are dismissed without prejudice for Plaintiff'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 by which to pay the designated initial partial filing fee within thirty days of the December 15, 2008, Order.

DATED at Denver, Colorado, this 28 day of Jan., 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 1/28/09

GREGORY C. LANGHAM, CLERK

By: 

Deputy Clerk