

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO

Civil Action No. 08-cv-02762-BNB

PAUL W. DRIGGERS,

Plaintiff,

v.

UNITED STATES OF AMERICA,
UNITED STATES BUREAU OF PRISONS, and
J. M. WILNER, Warden,

Defendants.

FILED
UNITED STATES DISTRICT COURT
DENVER, COLORADO

FEB 02 2009

GREGORY C. LANGHAM
CLERK

ORDER OF DISMISSAL

Mr. Paul W. Driggers is in the custody of the United States Bureau of Prisons and currently is incarcerated at FCI Tucson in Tucson, Arizona. Mr. Driggers initiated this action by filing a *pro se* Prisoner Complaint pursuant to ***Bivens v. Six Unknown Named Agents of Fed. Bureau of Narcotics***, 403 U.S. 388 (1971). In the Complaint, Mr. Driggers asserts on Page Two that he is filing the action pursuant to 28 U.S.C. § 2241 and is seeking the return of forty-eight days of good-time credit.

In an order entered on December 19, 2008, Magistrate Judge Boyd N. Boland construed this action as filed pursuant to 28 U.S.C. § 2241 and instructed Mr. Driggers to submit his claims on a Court-approved form used in filing § 2241 actions. Mr. Driggers also was instructed to submit to the Court a Prisoner's Motion and Affidavit for

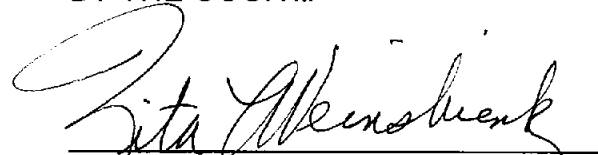
Leave to Proceed Pursuant to 28 U.S.C. § 1915 in a Habeas Action form if he desired to proceed *in forma pauperis*.

Mr. Driggers now has failed to communicate with the Court, and as a result he has failed to cure the deficiencies within the time allowed. Upon review of the Prisoner Complaint form that Mr. Driggers submitted, the Court finds that the Mr. Driggers' claims more properly are asserted in a 28 U.S.C. § 2241 action, and the action should be dismissed for failure to comply with Magistrate Judge Boland's December 19, 2008, Order. Accordingly, it is

ORDERED that the action is dismissed without prejudice for failure to cure the deficiencies.

DATED at Denver, Colorado, this 30 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-02762-BNB

Paul W. Driggers
Reg. No. 00922-287
FCI - Tucson
PO Box 23811
Tucson, AZ 85734-3811

I hereby certify that I have mailed a copy of the **ORDER AND JUDGMENT** the above-named individuals on 2/2/09

GREGORY C. LANGHAM, CLERK

By: 

Deputy Clerk