

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO

Civil Action No. 09-cv-00371-BNB

RUDY STANKO,

Applicant,

v.

HERMAN QUAY, Local Director,
MICHAEL NALLEY, Regional Director, and
HARLEY LAPPIN, National Director,

Respondents.

FILED
UNITED STATES DISTRICT COURT
DENVER, COLORADO

APR -3 2009

GREGORY C. LANGHAM
CLERK

ORDER OVERRULING OBJECTION

This matter is before the Court on the document titled "Notice and Appeal of the Legislative Magistrate's Order" submitted to the Court *pro se* on March 25, 2009, by Applicant, Rudy Stanko. In the document, Mr. Stanko objects to Magistrate Judge Boyd N. Boland's March 4, 2009, order construing his 28 U.S.C. § 2241 application as a complaint pursuant to *Bivens v. Six Unknown Named Agents of Fed. Bureau of Narcotics*, 403 U.S. 388 (1971), and directing Mr. Stanko to submit within thirty days a Prisoner Complaint and either the balance due on the filing fee in the amount of \$345.00 or a properly supported Prisoner's Motion and Affidavit for Leave to Proceed Pursuant to 28 U.S.C. § 1915.

The Court will construe the document liberally as an objection filed pursuant to 28 U.S.C. § 636(b)(1)(A). For the reasons stated below, the objection will be overruled.

Pursuant to 28 U.S.C. § 636(b)(1)(A), a judge may reconsider any pretrial matter designated to a magistrate judge to hear and determine where it has been shown that

the magistrate judge's order is clearly erroneous or contrary to law. The Court concludes that Magistrate Judge Boland's March 4, 2009, order is neither clearly erroneous nor contrary to law. Therefore, Mr. Stanko's liberally construed objection will be overruled. Accordingly, it is

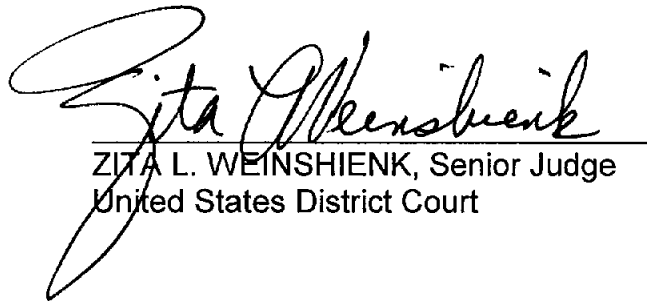
ORDERED that the document titled "Notice and Appeal of the Legislative Magistrate's Order" submitted to the Court *pro se* on March 25, 2009, by Applicant, Rudy Stanko, is construed liberally as an objection filed pursuant to 28 U.S.C. § 636 (b)(1)(A), and the objection is overruled. It is

FURTHER ORDERED that Applicant continues to have **thirty (30) days from the date of the March 4, 2009, order** in which to cure the designate deficiencies.

Failure to do so within the time allowed will result in the dismissal of the instant action.

DATED at Denver, Colorado, this 3 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. 09-cv-00371-BNB

Rudy Stanko
Reg. No. 18259-013
FCI - El Reno
PO Box 1500
El Reno, OK 73036

I hereby certify that I have mailed a copy of the **ORDER** to the above-named individuals on 4/13/09

GREGORY C. LANGHAM, CLERK

By 

Deputy Clerk