

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO

Civil Action No. 09-cv-01277-BNB

DANIEL WAYNE OSBORNE,

Applicant,

v.

J. M. WILNER, Warden, FCI - Florence,

Respondent.

FILED
UNITED STATES DISTRICT COURT
DENVER, COLORADO

JUL 15 2009

GREGORY C. LANGHAM
CLERK

ORDER OF DISMISSAL

Applicant, Daniel Wayne Osborne, is in the custody of the United States Bureau of Prisons and was incarcerated at the Federal Correctional Institution in Florence, Colorado, when he initiated this action by submitting *pro se* an Application for a Writ of Habeas Corpus Pursuant to 28 U.S.C. § 2241.

In an order filed on June 2, 2009, Magistrate Boyd N. Boland ordered Mr. Osborne to cure a deficiency in this case within thirty days. Specifically, Mr. Osborne was directed within thirty days either to pay the \$5.00 filing fee in a habeas corpus action or to submit a Prisoner's Motion and Affidavit for Leave to Proceed Pursuant to 28 U.S.C. § 1915 in a Habeas Corpus Action. On June 10, 2009, the copy of the June 2 order mailed to Mr. Osborne was returned to the Court in an envelope stamped "Return to Sender," "Attempted - Not Known," and "Unable to Forward."

Mr. Osborne has failed within the time allowed to cure the designated deficiency as directed, i.e., he has failed to pay the \$5.00 habeas corpus filing fee, submit a 28

U.S.C. § 1915 motion and affidavit, or otherwise to communicate with the Court in any way. The June 2, 2009, order warned Mr. Osborne that if he failed to cure the designated deficiency within the time allowed, the application and the action would be dismissed without further notice. Accordingly, it is

ORDERED that the habeas corpus application is denied and the action is dismissed without prejudice for failure to cure and for failure to prosecute.

DATED at Denver, Colorado, this 15 day of July, 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-01277-BNB

Daniel Wayne Osborne
Reg No. 09298-046
FCI - Florence
P.O. Box 6000
Florence, CO 81226

I hereby certify that I have mailed a copy of the **ORDER AND JUDGMENT** to the
above-named individuals on 7/15/09

GREGORY C. LANGHAM, CLERK

By: 

Deputy Clerk