

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO

Civil Action No. 09-cv-01453-BNB

FILED
UNITED STATES DISTRICT COURT
DISTRICT OF COLORADO

NOV 20 2009

GREGORY C. LANGHAM
CLERK

JOSEPH E. BROWN, a.k.a. JOSEY E. BROWN,

Plaintiff,

v.

ARISTEDES ZAVARAS, Colo. Dept. of Corrections,
KAVIN [sic] MILYARD, Warden of Sterling Corr. Facility,
GOV BILL RITTER,
BEVERLY DOWLES, Sterling Medical Staff,
STERLING C.O. STAFF, "Security,"
JOHN CHAPDELIN, D.O.C. Admin Staff,
JOHN W. SUTHERS, State Attorney General,
ANDREW KATARIKAWA, Colo D.O.C. Legal Staff,
ANTHONY A. DECESARO, Grievance Director, and
P.A. B. WEBSTER, Who no Longer Works for D.O.C.,

Defendants.

ORDER OF DISMISSAL

Plaintiff Joseph E. Brown, a.k.a. Josey E. Brown, acting *pro se*, initiated this action by filing a Prisoner Complaint and a Prisoner's Motion and Affidavit for Leave to Proceed Pursuant to 28 U.S.C. § 1915. Upon review of the merits of the Complaint, Magistrate Judge Boyd N. Boland entered an order, on August 27, 2009, directing Ms. Brown to file an Amended Complaint. Ms. Brown was instructed to name proper defendants and to assert personal participation by each named defendant. Ms. Brown, in keeping with *Nasious v. Two Unknown B.I.C.E. Agents*, 492 F.3d 1158, 1163 (10th Cir. 2007), also was instructed to submit an Amended Complaint that explains what

each defendant did to harm her, when the defendant did the harmful act, how she was injured, and what specific legal right the defendant violated. Ms. Brown was warned that if she failed to file an Amended Complaint within the time allowed the Complaint and the action would be dismissed.

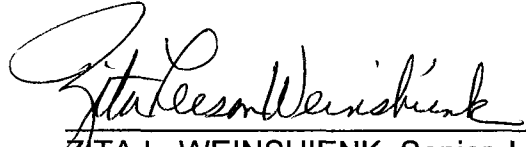
On September 29, 2009, Ms. Brown filed with the Court a "Request for Extension of Time on Filing of Amended Prisoner Complaint." In the Request, she asserts that she is not able to file an Amended Complaint within the time allowed, because she needs to research each of the cases to which Magistrate Judge Boland cited in the August 27, 2009, Order, and the DOC only allows her a couple of hours each day in the law library. Ms. Brown asked for a ninety-day extension. On September 30, 2009, Magistrate Judge Boland denied Ms. Brown's request for a ninety-day extension because she does not need to engage in legal research to amend her Complaint. The August 27, 2009, Order provides the law that Ms. Brown needs to know to prepare an Amended Complaint.

Upon review of the Complaint, and the September 30, 2009, Minute Order entered by Magistrate Judge Boland, the Court finds that Magistrate Judge Boland correctly instructed Ms. Brown to amend the Complaint and assert what named defendants did to violate her constitutional rights and properly denied Ms. Brown's request for a ninety-day extension of time to file an Amended Complaint. Therefore, the Complaint and action will be dismissed for failure to file an Amended Complaint within the time allowed. Since the Complaint and action will be dismissed without prejudice, Ms. Brown may proceed with her claims in a new action if she so desires. Accordingly, it is

ORDERED that the Complaint and action are dismissed without prejudice for failure to file an Amended Complaint and for failure to prosecute.

DATED at Denver, Colorado, this 19 day of November, 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-01453-BNB

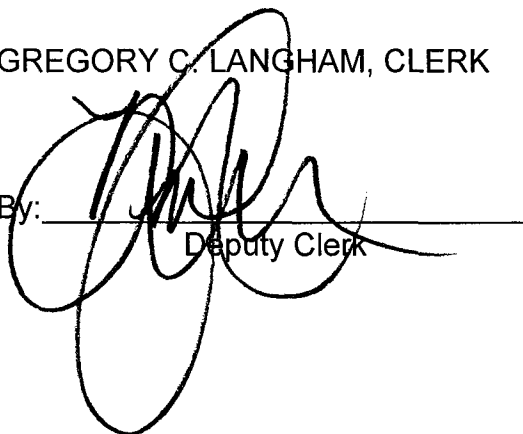
Joseph E. Brown
a/k/a Josey E. Brown
Prisoner No. 46794
Sterling Correctional Facility
PO Box 6000
Sterling, CO 80751

I hereby certify that I have mailed a copy of the **ORDER AND JUDGMENT** to the above-named individuals on 11/20/09

GREGORY C. LANGHAM, CLERK

By: _____

Deputy Clerk

A large, stylized handwritten signature in black ink, written over a horizontal line. The signature is cursive and appears to read 'G. Langham'.