

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO

Civil Action No. 09-cv-01502-BNB

KIRK SZODINSKI,

Plaintiff,

v.

DEPT. OF CORRECTIONS,
MEDICAL DEPT., and
FREMONT CORR. CENTER,

Defendants.

FILED
UNITED STATES DISTRICT COURT
DENVER, COLORADO

SEP 02 2009

GREGORY C. LANGHAM
CLERK

ORDER OF DISMISSAL

Plaintiff Kirk Szodinski is a prisoner in the custody of the Colorado Department of Corrections who currently is incarcerated at the Fremont Correctional Facility in Cañon City, Colorado. Mr. Szodinski initiated this action by filing a *pro se* Prisoner Complaint and a motion for leave to proceed *in forma pauperis* pursuant to 28 U.S.C. § 1915 together with a certified copy of his trust fund account statement. By order dated June 26, 2009, Magistrate Judge Boyd N. Boland directed the Clerk of the Court to commence a civil action and instructed Mr. Szodinski to cure certain deficiencies if he wished to pursue his claims. Specifically, Magistrate Judge Boland noted that the names in the caption of Mr. Szodinski's complaint did not match the names in the text of the complaint. On July 7, 2009, Mr. Szodinski submitted an amended complaint.

Magistrate Judge Boland granted Mr. Szodinski leave to proceed pursuant to


§ 1915 by order dated July 8, 2009. On July 23, 2009, Magistrate Judge Boland determined that Mr. Szodinski's amended complaint was deficient because he was attempting to sue improper parties, and also failed to allege the personal participation of all named Defendants. Therefore, Magistrate Judge Boland directed him to file a second amended complaint. Mr. Szodinski was warned that the action would be dismissed without further notice if he failed to file an amended pleading within thirty days.

On August 19, 2009, Mr. Szodinski filed a letter with the Court. In the letter, he states that he has decided to retain counsel to assist him. Although not clear, Mr. Szodinski also appears to request that his case be voluntarily dismissed. Nonetheless, Mr. Szodinski has not communicated with the Court since August 19, 2009, and he has not filed a second amended complaint as directed by Magistrate Judge Boland. As a result, he has failed to file a second amended pleading within the time allowed. Therefore, the Complaint and action will be dismissed without prejudice. Accordingly, it is

ORDERED that the Complaint and this action are dismissed without prejudice for failure to cure all deficiencies within the time allowed.

DATED at Denver, Colorado, this 1st day of Sept., 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-01502-BNB

Kirk M. Szodinski
a/k/a Richard Szopinski
Prisoner No. 129117
Fremont Corr. Facility
P.O. Box 999
Cañon City, CO 81215-0999

I hereby certify that I have mailed a copy of the **ORDER AND JUDGMENT** to the above-named individuals on 9/2/09

GREGORY C. LANGHAM, CLERK

By: 

Deputy Clerk