

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO

Civil Action No. 09-cv-01724-BNB

DAVID DURAN,

Applicant,

v.

KEVIN MILYARD, Warden, and
THE ATTORNEY GENERAL OF THE STATE OF COLORADO,

Respondents.

FILED
UNITED STATES DISTRICT COURT
DENVER, COLORADO

AUG 07 2009

GREGORY C. LANGHAM
CLERK

ORDER

Mr. David Duran, a state prisoner, filed a *pro se* pleading on August 3, 2009, that appears to be an Objection filed pursuant to 28 U.S.C. § 636. Mr. Duran objects to Magistrate Judge Boyd N. Boland handling of “dispositive matters in this civil action.” 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. With respect to Mr. Duran’s claim that the instant action is improperly before Magistrate Judge Boland, pursuant to D.C.COLO.LCivR 72.2 and to Fed. R. Civ. P. 73, because Mr. Duran must give consent for a magistrate judge to preside over the matters in the instant action, and he has not given such consent, the claim is without merit. Under D.C.COLO.LCivR 72.1, this Court has designated to a magistrate judge the authority to “make determinations and enter appropriate orders pursuant to 28 U.S.C. § 1915 with respect

to any suit, action, or proceedings in which a request is made to proceed *in forma pauperis*.” Therefore, Magistrate Judge Boland has proper authority to preside over the initial review of this Application, and Mr. Duran’s § 636 Objection is without merit. Accordingly, it is

ORDERED that Plaintiff’s 28 U.S.C. § 636 Objection (Doc. # 5), filed on August 3, 2009, is overruled.

DATED at Denver, Colorado, this 7 day of Aug., 2009.

BY THE COURT:


ZITA L. WEINSHIENK, Senior Judge
United States District Court

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CERTIFICATE OF MAILING

Civil Action No. 09-cv-01724-BNB

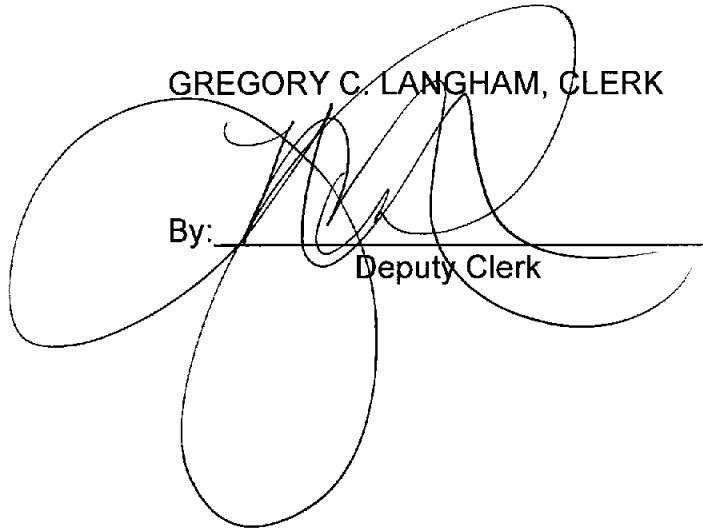
David Duran
Prisoner No. 49072
Sterling Correctional Facility
PO Box 6000
Sterling, CO 80751

I hereby certify that I have mailed a copy of the **ORDER** to the above-named individuals on 8/7/09

GREGORY C. LANGHAM, CLERK

By: _____

Deputy Clerk

A large, stylized handwritten signature in black ink, consisting of several overlapping loops and curves, is written over the signature line and extends upwards into the name area.