

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLORADO

Civil Action No. 09-cv-01740-ZLW

ANTHONY S. DEMBRY,

Applicant,

v.

PAM PLOUGHE, Acting Warden, and  
THE ATTORNEY GENERAL OF THE STATE OF COLORADO,

Respondents.

FILED  
UNITED STATES DISTRICT COURT  
DENVER, COLORADO

DEC 15 2009

GREGORY C. LANGHAM  
CLERK

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ORDER

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On September 2, 2009, the Court dismissed this action because Applicant Anthony S. Demby, a State of Colorado prisoner who sought habeas relief pursuant to 28 U.S.C. § 2254, failed to comply with the Court's July 23, 2009, Order and pay the \$5.00 filing fee. On December 7, 2009, a \$5.00 money order, with an issue date of August 3, 2009, was located by the Clerk's Office. The notation on the money order indicates that it is a payment of the \$5.00 filing fee in this action. The \$5.00 money order was receipted by the Financial Division of the Clerk of the Court on December 7, 2009, and noted as being submitted to the Court most likely by August 18, 2009. The Court, therefore, directs the Clerk of the Court to reopen the instant action.

The Court notes, however, that Mr. Demby submitted a subsequent 28 U.S.C. § 2254 Application to the Court on November 5, 2009. *See Demby v. Ploughe, et al.*, No. 09-cv-02695-BNB (D. Colo. Received Nov. 5, 2009). The November 5, 2009,

Application is exactly the same as the Application filed in this case. Based on the reopening of the instant action, Mr. Dembry's filing in Case No. 09-cv-02695-BNB may be unnecessary. Accordingly, it is

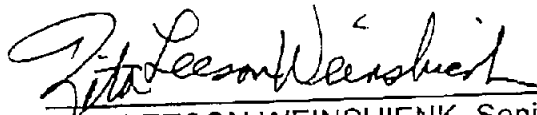
ORDERED that the Order of Dismissal and the Judgment entered on September 2, 2009, are vacated. It is

FURTHER ORDERED that the Application and the action are reinstated. It is

FURTHER ORDERED that the action again is referred to Magistrate Judge Boyd N. Boland for further initial review.

DATED at Denver, Colorado, this 15 day of December, 2009.

BY THE COURT:



ZITA LEESON WEINSHIENK, Senior Judge  
United States District Court

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLORADO

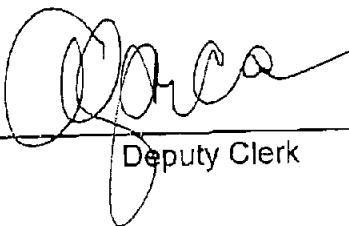
CERTIFICATE OF MAILING

Civil Action No. 09-cv-01740-ZLW

Anthony S. Dembrey  
Prisoner No. 104886  
Colorado Territorial Corr. Facility  
P.O. Box 1010  
Cañon City, CO 81215-1010

I hereby certify that I have mailed a copy of the **ORDER** to the above-named individuals on 12/15/09

GREGORY C. LANGHAM, CLERK

By:   
Deputy Clerk