

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO

Civil Action No. 09-cv-01802-BNB

JOSHUA C. MAES,

Plaintiff,

v.

LT. T. SWINDLER,

Defendant.

FILED
UNITED STATES DISTRICT COURT
DENVER, COLORADO

OCT 21 2009
GREGORY C. LANGHAM
CLERK

ORDER OF DISMISSAL

Plaintiff, Joshua C. Maes, is in the custody of the Colorado Department of Corrections and currently is incarcerated at the Fort Lyon Correctional Facility in Fort Lyon, Colorado. On July 24, 2009, Mr. Maes submitted to the Court a *pro se* Prisoner Complaint pursuant to 42 U.S.C. § 1983, in addition to a Prisoner's Motion and Affidavit for Leave to Proceed Pursuant to 28 U.S.C. § 1915.

By order dated July 30, 2009, Magistrate Judge Boyd N. Boland directed the Clerk of the Court to commence a civil action and instructed Mr. Maes to cure certain deficiencies if he wished to pursue his claims. Specifically, Magistrate Judge Boland ordered Mr. Maes to submit a certified copy of his trust fund account statement for the six-month period immediately preceding his filing. On August 27, 2009, Mr. Maes submitted a certified copy of his trust fund account statement.

Magistrate Judge Boland granted Mr. Maes leave to proceed pursuant to § 1915 by order dated September 1, 2009. The September 1, 2009, Order requires Mr. Maes to pay the full amount of the \$350.00 filing fee in installments and directs him to

pay an initial partial filing fee of \$2.00 within thirty days or to show cause why he has no assets and no means to pay the initial fee by filing a current certified copy of his trust fund account statement. The Order warns Mr. Maes that if he fails to have the initial partial filing fee sent to the Clerk of the Court by the designated deadline or to show cause why he has no assets and no means by which to pay the initial fee the Complaint would be dismissed without further notice.

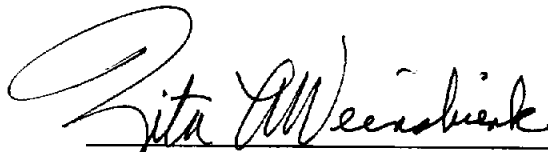
Mr. Maes now has failed either to pay the initial partial filing fee within the time allowed, as designated in the September 1, 2009, Order, or in the alternative to show cause why he has no assets and no means by which to pay the designated fee.

Accordingly, it is

ORDERED that the Prisoner Complaint and the action are dismissed without prejudice for Mr. Maes' failure either to pay an initial partial filing fee of \$2.00 or to show cause why he has no assets and no means by which to pay the designated fee.

DATED at Denver, Colorado, this 21 day of Oct., 2009.

BY THE COURT:



ZITA L. WEINSHIENK, Senior Judge
United States District Court

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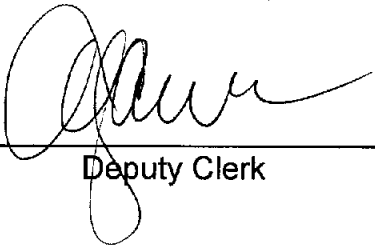
CERTIFICATE OF MAILING

Civil Action No. 09-cv-01802-BNB

Joshua C. Maes
Prisoner No. 144596
Fort Lyon Corr. Facility
P.O. Box 1000
Fort Lyon, CO 81038

I hereby certify that I have mailed a copy of the **ORDER AND JUDGMENT** to the above-named individuals on 10/21/09

GREGORY C. LANGHAM, CLERK

By: 
Deputy Clerk