

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLORADO

Civil Action No. 09-cv-01971-BNB

THOMAS L. DAVIS, #20021-039,

Plaintiff,

v.

OFFICER SCOTT DOVE, and  
OFFICER K. ESTRADA,

Defendants.

**FILED**  
UNITED STATES DISTRICT COURT  
DENVER, COLORADO

NOV 04 2009

GREGORY C. LANGHAM  
CLERK

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ORDER OF DISMISSAL

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Plaintiff, Thomas L. Davis, is a prisoner in the custody of the United States Bureau of Prisons who currently is incarcerated at the United States Penitentiary in Atwater, California. Mr. Davis 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 on August 11, 2009. By order dated August 18, 2009, Magistrate Judge Boyd N. Boland directed the Clerk of the Court to commence a civil action and directed Mr. Davis to cure certain enumerated deficiencies in the Prisoner Complaint. Specifically, he directed Mr. Davis to submit a certified copy of his inmate trust fund statement for the six month period immediately preceding the filing. On September 11, 2009, Mr. Davis submitted a proper Motion and Affidavit for Leave to Proceed Under 28 U.S.C. § 1915, which Magistrate Judge Boland granted on September 17, 2009.

The September 17, 2009, Order requires Mr. Davis to pay the full amount of the \$350.00 filing fee in installments and directs him to pay an initial partial filing fee of

\$1.00 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. Davis 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.

On September 18, 2009, Mr. Davis filed a Motion to Amend his Complaint. On September 23, 2009, Mr. Davis filed a pleading titled, "Answers to Order to Show Cause," in which he stated that he intended to pay the filing fee, and requested a protective order and punitive damages from the named Defendants. On October 5, 2009, Mr. Davis filed a pleading titled, "Motion to Delay Proceedings," in which he informed the Court that he was going to be transferred to another federal institution, and requested that Defendants pay him \$2071.90 in order to settle his case.

On October 6, 2009, Magistrate Judge Boland denied the Motion to Delay, and reminded Mr. Davis that it was his responsibility to make the necessary arrangements to pay the initial partial filing fee. Further, Magistrate Judge Boland warned Mr. Davis that he had until October 22, 2009 to pay the fee, or to show cause why he cannot. Mr. Davis was reminded that failure to do so within the time allowed would result in dismissal of the instant actions. On October 19, 2009, Mr. Davis filed a Notice of Change of Address and a request for a jury trial. No mail has been returned to the Court as undeliverable.

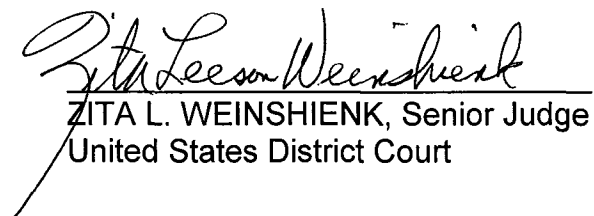
Accordingly, Mr. Davis now has failed either to pay the initial partial filing fee within the time allowed, as designated in the September 17, 2009, Order, or in the

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. Davis' failure either to pay an initial partial filing fee of \$1.00 or to show cause why he has no assets and no means by which to pay the designated fee.

DATED at Denver, Colorado, this 4 day of Nov, 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-01971-BNB

Thomas L. Davis  
Reg No. 20021-039  
US Penitentiary Atwater  
P.O. Box 019001  
Atwater, CA 95301

I hereby certify that I have mailed a copy of the **ORDER AND JUDGMENT** to the above-named individuals on 11/4/09

GREGORY C. LANGHAM, CLERK

By: 

Deputy Clerk