

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLORADO

Civil Action No. 09-cv-02152-BNB

GILARIME MICHAEL MUELLER,

Plaintiff,

v.

J. M. WILNER, Warden,  
JERREY JONES, Interim Warden,  
SCOTT VINEYARD, Assistant Warden,  
P. KLEIN, Captain,  
MR. DERR, Unit Manager,  
A. BAKER, Case Manager, and  
MR. WORSHAM, Counselor,

Defendants.

**FILED**  
UNITED STATES DISTRICT COURT  
DENVER

NOV 05 2009

GREGORY C. LEVINSKY  
CLERK

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ORDER OF DISMISSAL

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Plaintiff, Gilarime Michael Mueller, is a prisoner in the custody of the United States Bureau of Prisons who currently is incarcerated at the Federal Correctional Institution in Florence, Colorado. He submitted to the Court *pro se* a document titled "Action to Compel Officer of the United States to Perform His Duty in the Nature of Mandamus Pursuant to 28 U.S.C. § 1361." The Court reviewed the document and determined it was deficient. Therefore, in an order filed on September 9, 2009, Magistrate Judge Boyd N. Boland directed the clerk of the Court to commence a civil action and directed Mr. Mueller to cure certain deficiencies in the case within thirty days if he wished to pursue his claims.

The September 9, 2009, order pointed out that Mr. Mueller failed to submit on the proper, Court-approved forms a Prisoner's Motion and Affidavit for Leave to Proceed Pursuant to 28 U.S.C. § 1915 and a Prisoner Complaint. The September 9 order also pointed out that Mr. Mueller failed to submit a certified copy of his trust fund account statement for the six-month period immediately proceeding this filing. The order warned Mr. Mueller that if he failed to cure the designated deficiencies within thirty days, the action would be dismissed without prejudice and without further notice.

On October 9, 2009, Mr. Mueller submitted on the proper, Court-approved forms a Prisoner's Motion and Affidavit for Leave to Proceed Pursuant to 28 U.S.C. § 1915 and a Prisoner Complaint. He also submitted an uncertified copy of his trust fund account statement for the four-month period immediately proceeding this filing.

Subsection (a)(2) of 28 U.S.C. § 1915 requires submission of "a certified copy of the trust fund account statement (or institutional equivalent) for the prisoner for the 6-month period immediately preceding the filing of the complaint . . . obtained from the appropriate official of each prison at which the prisoner is or was confined." The September 9, 2009, order and the Prisoner's Motion and Affidavit for Leave to Proceed Pursuant to 28 U.S.C. § 1915 note this requirement. Accordingly, it is


ORDERED that the complaint and the action are dismissed without prejudice for failure to cure. It is

FURTHER ORDERED that leave to proceed pursuant to 28 U.S.C. § 1915 is denied as moot. It is

FURTHER ORDERED that the document titled "Action to Compel Officer of the United States to Perform His Duty in the Nature of Mandamus Pursuant to 28 U.S.C. § 1361" is denied as moot.

DATED at Denver, Colorado, this 5<sup>th</sup> day of November, 2009.

BY THE COURT:

  
\_\_\_\_\_  
ZITA L. WEINSHIENK, Senior Judge  
United States District Court

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLORADO

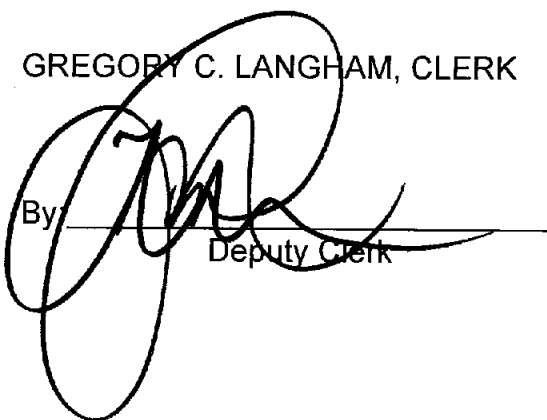
**CERTIFICATE OF MAILING**

Civil Action No. 09-cv-02152-BNB

Gilarime Michael Mueller  
Reg No. 08744-030  
FCI - Florence  
P.O. Box 6000  
Florence, CO 81226

I hereby certify that I have mailed a copy of the **ORDER AND JUDGMENT** to  
the above-named individuals on 11/5/09

GREGORY C. LANGHAM, CLERK

By  Deputy Clerk