

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLORADO

Civil Action No. 09-cv-02200-ZLW

BRUCE CLIFFORD PETERSON,

Plaintiff,

v.

BRIAN MATOS - #05107, D.P.D. Badge No.,  
RHODERIC PATRICK III - #04085, D.P.D. Badge No.,  
JACOB ROBB - #04021, D.P.D. Badge No.,  
GREGORY ZIMMERMAN - #00014, D.P.D. Badge No.,  
NOEL IKEDA - #00059, D.P.D. Badge No.,  
CRAIG KLUKAS - #03010, D.P.D. Badge No.,  
DANIEL J. STEELE - #99023, D.P.D. Badge No.,  
DANIEL L. OBANNON - #95009, D.P.D. Badge No.,  
CHARLES BUTLER - #B92008, D.P.D. Badge No.,  
CITY AND COUNTY OF DENVER,  
JOHN DOE #1 (name of person's identity unknown),  
JANE DOE #1 (name of person's identity unknown),  
JANE DOE #2 (name of person's identity unknown),  
JOHN DOE #2 (known only as Dr. Crum),  
WILLIAM LOVINGER, Director of Corrections, and  
JOHN DOE #3 (known only as Chaplain Scott),

Defendants.

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

APR 06 2010

GREGORY C. LANGHAM  
CLERK

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ORDER DENYING MOTION TO RECONSIDER

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Plaintiff, Bruce Clifford Peterson, a prisoner who is currently incarcerated at the Denver Reception and Diagnostic Center, filed a *pro se* motion titled, "Motion to Reinstate This Action," on April 1, 2010. The Court must construe the motion liberally because Mr. Peterson is a *pro se* litigant. *See Haines v. Kerner*, 404 U.S. 519, 520-21 (1972); *Hall v. Bellmon*, 935 F.2d 1106, 1110 (10th Cir. 1991). The "Motion to

Reinstate This Action,” therefore, will be construed as a Motion to Reconsider and will be denied for the reasons stated below.

A litigant subject to an adverse judgment, and who seeks reconsideration by the district court of that adverse judgment, may “file either a motion to alter or amend the judgment pursuant to Fed. R. Civ. P. 59(e) or a motion seeking relief from the judgment pursuant to Fed. R. Civ. P. 60(b).” ***Van Skiver v. United States***, 952 F.2d 1241, 1243 (10th Cir. 1991). Mr. Peterson filed the Motion to Reconsider within twenty-eight days after the Order of Dismissal and the Judgment were entered in the instant action. The Court, therefore, finds that the Motion to Reconsider is filed pursuant to Rule 59(e). **See** Fed. R. Civ. P. 59(e).

The three major grounds that justify reconsideration are: (1) an intervening change in the controlling law; (2) the availability of new evidence; and (3) the need to correct clear error or prevent manifest injustice. **See *Servants of the Paraclete v. Does***, 204 F.3d 1005, 1012 (10th Cir. 2000). Upon consideration of the motion to reconsider and the entire file, the Court concludes that Mr. Peterson fails to demonstrate that any of the grounds justifying reconsideration exist in his case.

Mr. Peterson initiated this action by filing a ***pro se*** civil rights complaint for money damages and injunctive relief pursuant to 42 U.S.C. § 1983 on September 4, 2009. On September 22, 2009, Magistrate Judge Boyd N. Boland determined that Mr. Peterson’s complaint was deficient, because it failed to comply with Fed. R. Civ. P. 8, and failed to allege facts that demonstrated how the named Defendants personally participated in the asserted constitutional violations. Therefore, Mr. Peterson was

ordered to file an amended complaint, and was warned that the action would be dismissed without further notice if he failed to file an amended pleading within thirty days.

On October 28, 2009, Mr. Peterson requested an extension of time to file his amended pleading. By minute order dated October 30, 2009, Magistrate Judge Boland granted Mr. Peterson a thirty-day extension of time. Mr. Peterson submitted an Amended Complaint on December 1, 2009.

On December 4, 2009, Magistrate Judge Boland determined that the Amended Complaint again failed to comply with the pleading requirements of Rule 8, because Mr. Peterson failed to set forth any specific claims for relief. Accordingly, Magistrate Judge Boland ordered Mr. Peterson to file a Second Amended Complaint within thirty days. On January 5, 2010, Mr. Peterson requested a thirty-day extension of time to file his Second Amended Complaint, which Magistrate Judge Boland granted by minute order dated January 6, 2010.

Finding that Mr. Peterson had failed to file a Second Amended Complaint, the Court entered an order dismissing Mr. Peterson's action without prejudice on February 19, 2010. The Court also noted that Mr. Peterson had not communicated with the Court since January 5, 2010, and that none of his mail had been returned as undeliverable. On April 1, 2010, Mr. Peterson submitted the Motion to Reconsider.

In the Motion to Reconsider, Mr. Peterson asserts that he "did not receive the Order of Dismissal until 2 ½ weeks after the fact." Motion to Reconsider at 1. He also asserts that it is difficult to obtain access to the law library at his facility, and that the law library is "very inadequate." *Id.* at 1-2. Mr. Peterson does not explain, however, why he

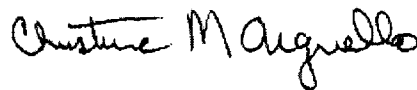
failed to file his Second Amended Complaint within the time provided by the Court. The fact that Mr. Peterson did not receive the Court's Order of Dismissal for two-and-a-half weeks has no bearing on his failure to comply with the Court's Order for a Second Amended Complaint. Moreover, Mr. Peterson failed to file any additional motions for extensions of time, or communicate with the Court at all, from January 5, 2010, through April 1, 2010. Accordingly, Mr. Peterson has not asserted any of the major grounds that would justify reconsideration in his case, and the Motion for Reconsideration will be denied. **See *Servants of the Paraclete***, 204 F.3d at 1012.

Mr. Peterson is reminded that the instant action was dismissed without prejudice, and he may, if he desires, seek to file a new action. Accordingly, it is

ORDERED that the "Motion to Reinstate This Action," filed on April 1, 2010, is denied.

DATED at Denver, Colorado, this 6th day of April, 2010.

BY THE COURT:



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CHRISTINE M. ARGUELLO  
United States District Judge, for  
ZITA LEESON WEINSHIENK, Senior Judge  
United States District Court

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLORADO

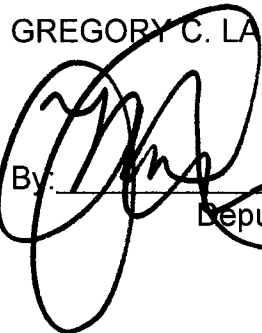
**CERTIFICATE OF MAILING**

Civil Action No. 09-cv-02200-ZLW

Bruce Clifford Peterson  
Prisoner No. 48058  
CMRC  
2925 E. Las Vegas St.  
Colorado Springs, CO 80906

I hereby certify that I have mailed a copy of the **ORDER** to the above-named individuals on 4/6/10

GREGORY C. LANGHAM, CLERK

By:  \_\_\_\_\_  
Deputy Clerk