

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO

Civil Action No. 09-cv-02250-BNB

ANDRE J. TWITTY,

Plaintiff,

v.

TROY EID, U.S. Attorney (Den., Colo.),

Defendant.

FILED
UNITED STATES DISTRICT COURT
DENVER, COLORADO

DEC 10 2009

GREGORY C. LANGHAM
CLERK

ORDER OF DISMISSAL

Plaintiff, Andre J. Twitty, submitted *pro se* motions titled "Motion to Proceed In Forma Pauperis Brief in Support" and "Motion for Writ of Mandamus, to Compel the Respondent to Convene a Federal Grand Jury, to Investigate the Criminal Violations of Federal Law as well as the 'Flagrant Abuse of Discretion' by the U.S. District - Tenth Circuit Court of Appeals, 'Judges' 'Staff Attorneys' and 'Clerks' to Conceal Said Violations of Law Brief in Support." As part of the Court's review pursuant to D.C.COLO.LCivR 8.2, the Court determined that the submitted motions were deficient.

Notwithstanding the deficiencies, in an order filed on September 21, 2009, Magistrate Judge Boyd N. Boland directed the clerk of the Court to commence a civil action. Mr. Twitty was directed to cure certain enumerated deficiencies if he wished to pursue his claims. He specifically was directed to submit within thirty days a Prisoner's Motion and Affidavit for Leave to Proceed Pursuant to 28 U.S.C. § 1915 on the proper, Court-approved form and to submit a complaint on the proper, Court-approved, Prisoner Complaint form. The September 21 order warned Mr. Twitty that if he failed to

cure the designated deficiencies as directed within the time allowed, the action would be dismissed without further notice.

On October 21, 2009, Mr. Twitty submitted an amended Prisoner's Motion and Affidavit for Leave to Proceed Pursuant to 28 U.S.C. § 1915 and a Prisoner Complaint, which refers to the previously filed motion for mandamus relief. He attached a copy of the motion for mandamus relief to the complaint. On October 26, 2009, Magistrate Judge Boland entered a minute order noting as follows:

This matter is before the Court on the amended Prisoner's Motion and Affidavit for Leave to Proceed Pursuant to 28 U.S.C. § 1915 that Plaintiff, Andre J. Twitty, submitted to and filed with the Court on October 21, 2009. He has failed to submit as an attachment to the § 1915 motion and affidavit a certified copy of his trust fund account statement for the six-month period immediately preceding the filing of his action. Instead, he has written on page two of the amended 28 U.S.C. § 1915 motion, "[unintelligible] file with court."

The Court is not clear whether Mr. Twitty is attempting to explain that he will file the required account statement separately or that he is being denied such a statement. To the extent Mr. Twitty may be attempting to inform the Court that he is unable to provide a certified copy of his trust fund account statement, he has failed to provide written documentation showing that he is being denied such a statement. Therefore, Mr. Twitty will be allowed **twenty (20) days from the date of this minute order** in which to cure the designated deficiency or to show cause why he is unable to do so, including to submit written documentation of any denial by a prison official of his request for a certified trust fund account statement. Failure within the time allowed either to cure the deficiency or to show cause why he is unable to do so will result in the dismissal of the instant action.

October 26, 2009, minute order at 1.

Mr. Twitty has failed within the time allowed to cure the designated deficiencies or otherwise to communicate with the Court in any way. Accordingly, it is

ORDERED that the action is dismissed without prejudice for the failure of Plaintiff, Andre J. Twitty, to cure the designated deficiencies within the time allowed and for his failure to prosecute. It is

FURTHER ORDERED that the pending motions are denied as moot.

DATED at Denver, Colorado, this 9 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-02250-BNB

Andre J. Twitty
Reg. No. 18558-018
ADX – Florence
PO Box 8500
Florence, CO 81226-8500

I hereby certify that I have mailed a copy of the **ORDER AND JUDGMENT** to the above-named individuals on 12/10/09

GREGORY C. LANGHAM, CLERK

By: 

Deputy Clerk