

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO

Civil Action No. 09-cv-02295-BNB

DANIEL TAGUE,

Petitioner - Appellant,

v.

KEVIN MILYARD, Warden - Sterling Corr. Facility,

Respondent - Appellee.

FILED
UNITED STATES DISTRICT COURT
DENVER, COLORADO

NOV 18 2009

GREGORY C. LANGHAM
CLERK

ORDER OF DISMISSAL

Petitioner, Daniel Tague, initiated this action by filing a *pro se* pleading titled "Motion for an Extension of Time to File 28 U.S.C. § 2254 Writ of Habeas Corpus."

In an order filed on September 25, 2009, Magistrate Judge Boyd N. Boland directed the Clerk of the Court to commence a civil action and directed Mr. Tague to cure certain deficiencies if he wished to pursue his claims. Specifically, Magistrate Judge Boland ordered Mr. Tague to file an Application for Writ of Habeas Corpus on the court-approved form, and either pay the filing fee or file a motion seeking leave to proceed *in forma pauperis* pursuant to 28 U.S.C. § 1915. Mr. Tague was warned that the action would be dismissed without further notice if he failed to cure the deficiencies within thirty days.

On October 14, 2009, Mr. Tague filed a Prisoner's Motion and Affidavit for Leave to Proceed Pursuant to 28 U.S.C. § 1915 in a Habeas Corpus Action. However, Mr. Tague has not filed an Application for Writ of Habeas Corpus on the court-approved


form. Accordingly, Mr. Tague has failed to cure the deficiencies within the time allowed and the action will be dismissed without prejudice for failure to cure the deficiencies.

Accordingly, it is

ORDERED that the action is dismissed without prejudice for failure to cure the deficiencies.

DATED at Denver, Colorado, this 16 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-02295-BNB

Daniel Tague
Prisoner No. 130097
Sterling Correctional Facility
PO Box 6000
Sterling, CO 80751

I hereby certify that I have mailed a copy of the **ORDER AND JUDGMENT** to the above-named individuals on 11/18/09

GREGORY C. LANGHAM, CLERK

By: 

Deputy Clerk