

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLORADO

Civil Action No. 09-cv-02343-BNB

ERNEST BREWER,

Plaintiff,

v.

ROBERT CANTWELL,

Defendant.

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

JAN 19 2010

GREGORY C. LANGHAM  
CLERK

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ORDER OF DISMISSAL

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Plaintiff Ernest Brewer, acting *pro se*, initiated this action by filing a Prisoner Complaint and a Prisoner's Motion and Affidavit for Leave to Proceed Pursuant to 28 U.S.C. § 1915. Upon review of the merits of the Complaint, Magistrate Judge Boyd N. Boland entered an order, on October 27, 2009, directing Mr. Brewer to file an Amended Complaint that complies with Fed. R. Civ. P. 8 and asserts how each named defendant personally participated in violating his constitutional rights. Magistrate Judge Boland also instructed Mr. Brewer to explain what each defendant did to harm him, when the defendant did the harmful act, how he was injured, and what specific legal right the defendant violated, in keeping with *Nasious v. Two Unknown B.I.C.E. Agents*, 492 F.3d 1158, 1163 (10th Cir. 2007). Mr. Brewer was warned that the Complaint and the action would be dismissed if he failed to file an Amended Complaint within the time allowed.

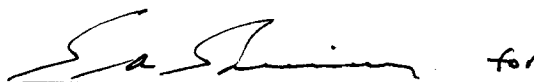
On November 5, 2009, Mr. Brewer filed a Letter with the Court in which he requested a transfer to a different prison facility and an extension of four months to file an Amended Complaint. The Court, on November 20, 2009, denied both of Mr. Brewer's requests and instructed him to file an Amended Complaint within thirty days that is in keeping with Magistrate Judge Boland's October 27, 2009, Order.

Mr. Brewer now has failed to communicate with the Court, and as a result he has failed to comply with the Court's November 20, 2009, Order. Therefore, the Complaint and action will be dismissed for failure to file an Amended Complaint within the time allowed. Accordingly, it is

ORDERED that the Complaint and action are dismissed without prejudice for failure to file an Amended Complaint and for failure to prosecute.

DATED at Denver, Colorado, this 19<sup>th</sup> day of January, 2010.

BY THE COURT:

Handwritten signature of Philip A. Brimmer in cursive, followed by a horizontal line and the word "for" to the right.

PHILIP A. BRIMMER  
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-02343-BNB

Ernest Brewer  
Prisoner No. 93706  
Sterling Correctional Facility  
PO Box 6000 - Unit 4C112  
Sterling, CO 80751

I hereby certify that I have mailed a copy of the **ORDER AND JUDGMENT** to the above-named individuals on 1/19/10

GREGORY C. LANGHAM, CLERK

By: 

Deputy Clerk