

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO

Civil Action No. 09-cv-02402-BNB

FILED
UNITED STATES DISTRICT COURT
DENVER, COLORADO

VINCENT EUGENE WELLS,

NOV 20 2009

Plaintiff,

GREGORY C. LANGHAM
CLERK

v.

BEVERLY DOWIS, Health Supervisor Administrator, Sterling Correctional Facility,
Colorado Department of Corrections, in Her Official and Individual Capacities,
CHERYL SMITH, Colorado Department of Corrections Clinical Director, in Her Official
and Individual Capacities,
PHYSICIAN'S HEALTH PARTNERS, Colorado Department of Corrections Insurer,
Consultants, and Providers, in Official and Individual Capacities,
JO ANNE STOCK, Physicians Assistant, Colorado Department of Corrections, Sterling
Correctional Facility, in Her Official Capacity,
JOSEPH FORTUNATO, Physician, Colorado Department of Corrections, Sterling
Correctional Facility, in His Official and Individual Capacities, and
BARRY GOLDSMITH, Physician (M.D.), Colorado Department of Corrections, Sterling
Correctional Facility, in His Official and Individual Capacities,

Defendants.

ORDER OF DISMISSAL

Plaintiff, Vincent Eugene Wells, is a prisoner in the custody of the Colorado Department of Corrections who currently is incarcerated at the Sterling Correctional Facility. Mr. Wells initiated this action by filing a *pro se* Prisoner Complaint and a motion for leave to proceed *in forma pauperis* pursuant to 28 U.S.C. § 1915 on October 5, 2009. By order dated October 9, 2009, Magistrate Judge Boyd N. Boland directed the Clerk of the Court to commence a civil action and granted Mr. Wells leave to proceed pursuant to 28 U.S.C. § 1915.

The October 9, 2009, Order requires Mr. Wells to pay the full amount of the \$350.00 filing fee in installments and directs him to pay an initial partial filing fee of \$12.00 within thirty days or to show cause why he has no assets and no means to pay the initial fee by filing a current certified copy of his trust fund account statement. The Order warns Mr. Wells that if he fails to have the initial partial filing fee sent to the Clerk of the Court by the designated deadline or to show cause why he has no assets and no means by which to pay the initial fee the Complaint would be dismissed without further notice.

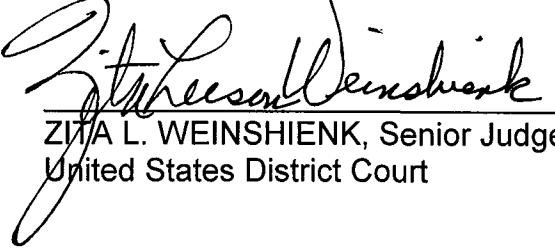
On October 28, 2009, Mr. Wells filed a "Response" to the October 9, 2009, Order, in which he requests to be allowed to proceed without an initial partial filing fee. Mr. Wells attached a inmate trust fund account statement to his Response. In Magistrate Judge Boland's October 9, 2009, Order, Mr. Wells was directed that, in order to show cause, he must file a current **certified** copy of his trust fund account statement. However, the trust fund account statement filed by Mr. Wells is not certified.

Therefore, Mr. Wells now has failed either to pay the initial partial filing fee within the time allowed, as designated in the October 9, 2009, Order, or in the alternative to show cause why he has no assets and no means by which to pay the designated fee. Accordingly, it is

ORDERED that the Prisoner Complaint and the action are dismissed without prejudice for Mr. Wells' failure either to pay an initial partial filing fee of \$12.00 or to show cause why he has no assets and no means by which to pay the designated fee.

DATED at Denver, Colorado, this 20 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-02402-BNB

Vincent Eugene Wells
Prisoner No. 55293
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 11/24/09

GREGORY G. LANGHAM, CLERK

By: 

Deputy Clerk