

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO

Civil Action No. 09-cv-02432-BNB

JOHN J. McCARTHY,

Plaintiff,

v.

JOHN DOE WARDEN, and
JOHN DOE STAFF,

Defendants.

FILED
UNITED STATES DISTRICT COURT
DENVER, COLORADO

JAN 21 2010

GREGORY C. LANGHAM
CLERK

ORDER OF DISMISSAL

In an order filed on December 11, 2009, the Court denied Plaintiff leave to proceed *in forma pauperis* pursuant to 28 U.S.C. § 1915 in this action because he is subject to the filing restrictions in § 1915(g). The Court also ordered Plaintiff to pay the entire \$350.00 filing fee within thirty days if he wished to pursue his claims in this action. Plaintiff was warned that the complaint and the action would be dismissed without further notice if he failed to pay the filing fee within thirty days.

On December 21, 2009, Plaintiff filed a "Motion for Reconsideration of Judgment" stating that he should be allowed to continue this action because he never received any notice to cure any deficiencies in this action. On January 4, 2010, Magistrate Judge Boyd N. Boland entered a minute order denying Plaintiff's motion for reconsideration because no Judgment has been entered in this action.

Plaintiff has not paid the filing fee within the time allowed. Therefore, the complaint and the action will be dismissed. Accordingly, it is

ORDERED that the complaint, the amended complaint, and the action are dismissed without prejudice because Plaintiff failed to pay the filing fee.

DATED at Denver, Colorado, this 20 day of January, 2010.

BY THE COURT:

Christine M Arguello for
CHRISTINE M. ARGUELLO
United States District Judge, for
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-02432-BNB

John J. McCarthy
Reg. No. 38051-066
FCI - Florence
P.O. Box 6000
Florence, CO 81226

I hereby certify that I have mailed a copy of the **ORDER AND JUDGMENT** to the above-named individuals on 1/21/10

GREGORY C. LANGHAM, CLERK

By: 

Deputy Clerk