

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO

Civil Action No. 09-cv-02561-DME-KLM

TERRY TYLER

Plaintiff,

v.

A.W.J. JONES, Acting Warden,
CAPTAIN CHRIS, and
UNIT MANAGER DERR,

Defendants.

ORDER

ENTERED BY MAGISTRATE JUDGE KRISTEN L. MIX

This matter is before the Court on *pro se* prisoner Plaintiff's pleading titled "**Writ of Habeas Corpus Pursuant to 28 U.S.C. § 2241**" [Docket No. 77; Filed February 25, 2011]. The pleading was docketed as a Motion seeking transfer from federal to state custody or transfer to a different federal facility. This case has been closed since September 28, 2010 [Docket No. 76]. While pending, Plaintiff's lawsuit pertained to alleged constitutional violations brought under the authority of *Bivens v. Six Unknown Agents of Fed'l Bureau of Narcotics*, 403 U.S. 388 (1971).

IT IS HEREBY ORDERED that the Motion is **DENIED**. First, this case is closed and Plaintiff has provided no legal basis to reopen it. See, e.g., D.C.COLO.LCivR 7.1C. (requiring that all motions contain a legal basis for any relief requested). Second, to the extent that Plaintiff seeks to revisit matters at issue in his closed case, the case was dismissed without prejudice. Dismissal without prejudice means that Plaintiff may, if

appropriate, file a new case addressing the issues raised in his prior dismissed case. See, e.g., *Green v. Schroeder*, No. 05-cv-02634, 2006 WL 1182474, at *2 (D. Colo. May 2, 2006) (unpublished decision) (recognizing that a dismissal without prejudice permits a party “to file a new case addressing the same claims”). Third, while open, this case was premised on the relief afforded by *Bivens* and did not provide any basis for relief under habeas corpus jurisprudence. To the extent that Plaintiff seeks to pursue relief pursuant to 28 U.S.C. § 2241, he must exhaust any appropriate administrative remedies and file a new lawsuit in the proper jurisdiction.

IT IS FURTHER **ORDERED** that the Clerk of Court is directed not to accept any future pleadings from Plaintiff for filing in this lawsuit.

Dated: March 1, 2011

BY THE COURT:

s/ Kristen L. Mix
U.S. Magistrate Judge
Kristen L. Mix