

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO

Civil Action No. 09-cv-02692-BNB

JOSHUA C. MAES,

Plaintiff,

v.

LT. T. SWINDLER, and
CAPTAIN EARNASTINE MILLS,

Defendants.

FILED
UNITED STATES DISTRICT COURT
DENVER, COLORADO

JAN 25 2010

GREGORY C. LANGHAM
CLERK

ORDER OF DISMISSAL

Plaintiff, Joshua C. Maes, is in the custody of the Colorado Department of Corrections and currently is incarcerated at the Fort Lyon Correctional Facility. On November 9, 2009, Mr. Maes submitted to the Court a *pro se* Prisoner Complaint and a Motion and Affidavit for Leave to Proceed Under 28 U.S.C. § 1915. On November 17, 2009, Magistrate Judge Boyd N. Boland directed the Clerk of the Court to commence a civil action, and directed Plaintiff to cure certain deficiencies. Specifically, he directed Mr. Maes to submit a certified copy of his inmate trust fund statement for the six month period immediately preceding the filing.

On December 3, 2009, Mr. Maes submitted a certified inmate account statement, and Magistrate Judge Boland granted him leave to proceed pursuant to 28 U.S.C. § 1915 by order dated December 9, 2009.

The December 9, 2009, Order requires Mr. Maes to pay the full amount of the \$350.00 filing fee in installments and directs him to pay an initial partial filing fee of

\$1.00 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. Maes 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.


Mr. Maes now has failed either to pay the initial partial filing fee within the time allowed, as designated in the December 9 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. Maes' failure either to pay an initial partial filing fee of \$1.00 or to show cause why he has no assets and no means by which to pay the designated fee.

DATED at Denver, Colorado, this 25 day of January, 2010.

BY THE COURT:


CHRISTINE M. ARGUELLO
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-02692-BNB

Joshua C. Maes
Prisoner No. 144596
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 1/25/10

GREGORY C. LANGHAM, CLERK

By: 

Deputy Clerk