

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO

Civil Action No. 09-cv-02707-BNB

SHAUN T. WHITAKER,

Plaintiff,

v.

TERRY MAKETA - SHERIFF,
CRIMINAL JUSTICE CENTER,
CORRECTIONAL HEALTHCARE MGNT.,
DR. DIANE AL ABDULAILA (CHM), and
NURSE ED DORSEY (CHM),

Defendants.

FILED
UNITED STATES DISTRICT COURT
DENVER, COLORADO

FEB 12 2010

GREGORY C. LANGHAM
CLERK

ORDER OF DISMISSAL

Plaintiff, Shaun T. Whitaker, is in the custody of the El Paso County Sheriff's Department and is currently incarcerated at the El Paso County Criminal Justice Center. He initiated this action by filing a *pro se* Prisoner Complaint pursuant to 42 U.S.C. § 1983 and a Prisoner's Motion and Affidavit for Leave to Proceed Pursuant to 28 U.S.C. § 1915 on November 12, 2009.

By order dated November 18, 2009, Magistrate Judge Boyd N. Boland directed the Clerk of the Court to commence a civil action and directed Mr. Whitaker to cure a deficiency in his § 1915 motion by filing a certified copy of his prisoner's trust fund statement. Mr. Whitaker filed a certified copy of his prisoner's trust fund statement, in addition to an amended complaint, on December 4, 2009. Magistrate Judge Boland

granted him leave to proceed pursuant to 28 U.S.C. § 1915 on December 9, 2009, and Mr. Whitaker paid the initial partial filing fee on December 21, 2009.

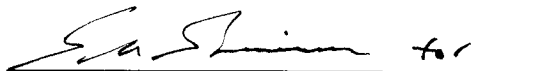
On December 30, 2009, Magistrate Judge Boland determined that the amended complaint was deficient because Mr. Whitaker failed to assert the personal participation of each named defendant. Therefore, Mr. Whitaker was directed to file a second amended complaint. Mr. Whitaker was warned that the action would be dismissed without further notice if he failed to file an amended pleading within thirty days.

Mr. Whitaker has not communicated with the Court since December 17, 2009. Therefore, he has now failed to file a second amended complaint within the time allowed, and the amended complaint and action will be dismissed without prejudice. Accordingly, it is

ORDERED that the amended complaint and this action are dismissed without prejudice for failure to file an amended pleading within the time allowed.

DATED at Denver, Colorado, this 10th day of February, 2010.

BY THE COURT:



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-02707-BNB

Shaun T. Whitaker
Prisoner No. A00186887
Criminal Justice Center
2739 East Las Vegas
Colorado Springs, CO 80906

I hereby certify that I have mailed a copy of the **ORDER AND JUDGMENT** to the above-named individuals on 2/12/10

GREGORY C. LANGHAM, CLERK

By: 

Deputy Clerk