

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO

Civil Action No. 09-cv-02795-BNB

ANGELO LUCERO,

Plaintiff,

v.

(SCF) Medical Staff,
CHAMJOCK, and
BEVERLY DOWIS,

Defendants.

FILED
UNITED STATES DISTRICT COURT
DENVER, COLORADO

JAN 22 2010

GREGORY C. LANGHAM
CLERK

ORDER OF DISMISSAL

Plaintiff, Angelo Lucero, is a prisoner in the custody of the Colorado Department of Corrections who currently is incarcerated at the Sterling, Colorado, correctional facility. He submitted to the Court *pro se* a document titled "Notice of Intent, In the Interest of Justice and Appointment of Counsel." The Court reviewed the document and determined it was deficient. Therefore, in an order filed on December 1, 2009, Magistrate Judge Boyd N. Boland directed the clerk of the Court to commence a civil action and directed Mr. Lucero to cure certain enumerated deficiencies in the case within thirty days if he wished to pursue his claims.

The December 1 order pointed out that Mr. Lucero failed to submit either the \$350.00 filing fee or a Prisoner's Motion and Affidavit for Leave to Proceed Pursuant to 28 U.S.C. § 1915 together with a certified copy of his trust fund account statement for the six-month period immediately preceding this filing. The December 1 order also

pointed out that Mr. Lucero failed to submit a Prisoner Complaint that named all parties in the caption to the complaint. The order warned Mr. Lucero that if he failed to cure the designated deficiencies within thirty days, the action would be dismissed without prejudice and without further notice. On December 28, 2009, Mr. Lucero submitted to the Court *pro se* a Prisoner's Motion and Affidavit for Leave to Proceed Pursuant to 28 U.S.C. § 1915, a Prisoner Complaint, and an uncertified copy of his trust fund account statement for the six-month period immediately preceding this filing.

Subsection (a)(2) of 28 U.S.C. § 1915 requires submission of "a certified copy of the trust fund account statement (or institutional equivalent) for the prisoner for the 6-month period immediately preceding the filing of the complaint . . . obtained from the appropriate official of each prison at which the prisoner is or was confined." The December 1 order and the Prisoner's Motion and Affidavit for Leave to Proceed Pursuant to 28 U.S.C. § 1915 note this requirement. Mr. Lucero has failed to cure all designated deficiencies within the time allowed and, therefore, the complaint and the action will be dismissed without prejudice. Accordingly, it is

ORDERED that the complaint and the action are dismissed without prejudice for failure to cure. It is

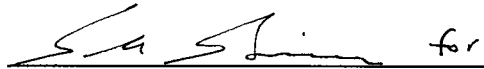
FURTHER ORDERED that leave to proceed pursuant to 28 U.S.C. § 1915 is denied as moot. It is

FURTHER ORDERED that the motion titled "Request (Stay) of 180 in the Interest of Justice and Appointment of Counsel" that Plaintiff, Angelo Lucero, submitted

to and filed with the Court on December 28, 2009, is denied as moot.

DATED at Denver, Colorado, this 21st day of January, 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-02795-BNB

Angelo Lucero
Prisoner No. 119932
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 4/22/10

GREGORY C. LANGHAM, CLERK

By: 

Deputy Clerk