

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLORADO

Civil Action No. 09-cv-02796-BNB

**FILED**  
UNITED STATES DISTRICT COURT  
DENVER, COLORADO

VIRGIL CROFFER,

FEB 04 2010

Plaintiff,

GREGORY C. LANGHAM  
CLERK

---

v.

ARISTEDES ZAVARAS, Exc. Dir. C.D.O.C.,  
BEVERLY DOWIS, Admin. Dir., S.C.F. Medical Dept., and  
KEVIN MILYARD, S.C.F. Warden,

Defendants.

---

ORDER OF DISMISSAL

---

Plaintiff Virgil Croffer, acting *pro se*, initiated this action by filing a Prisoner Complaint and a Prisoner's Motion and Affidavit for Leave to Proceed Pursuant to 28 U.S.C. § 1915. Magistrate Judge Boyd N. Boland entered an order on December 1, 2009, instructing Mr. Croffer that because he is not incarcerated he should submit his claims and his request to proceed *in forma pauperis* on Court-approved forms used by *pro se* non-prisoners. Magistrate Judge Boland instructed Mr. Croffer to cure the deficiencies and submit the proper forms. On December 16, 2009, Mr. Croffer complied with Magistrate Judge Boland's December 1 Order.

On December 28, 2009, Magistrate Judge Boland entered an order finding that Mr. Croffer failed to assert any claims on the Complaint form. Nonetheless, Magistrate Judge Boland reviewed the claims Mr. Croffer asserted in the Prisoner Complaint that


he submitted to the Court on November 18, 2009, and determined that Mr. Croffer failed to assert personal participation by each named defendant. Magistrate Judge Boland instructed Mr. Croffer to submit an Amended Complaint that explains what each defendant did to harm him, when the defendant did the harmful act, how he was injured, and what specific legal right the defendant violated, in keeping with **Nasious v. Two Unknown B.I.C.E. Agents**, 492 F.3d 1158, 1163 (10th Cir. 2007). Mr. Croffer was warned in the December 28 Order that if he failed to file an Amended Complaint within the time allowed the Complaint and the action would be dismissed.

Mr. Croffer has failed to communicate with the Court, and as a result he has failed to comply with Magistrate Judge Boland's December 28 Order within the time allowed. The Court has reviewed the file and concurs with Magistrate Judge Boland's findings in the December 28 Order. The action, therefore, will be dismissed for failure to amend and to prosecute within the time allowed. Accordingly, it is

ORDERED that the Complaint and action are dismissed without prejudice for failure to file an Amended Complaint and for failure to prosecute.

DATED at Denver, Colorado, this 3 day of February, 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-02796-BNB

Virgil Croffer  
9440 Hoffman Way #D-104  
Thornton, CO 80229

I hereby certify that I have mailed a copy of the **ORDER AND JUDGMENT** to the above-named individuals on 2/4/10

GREGORY C. LANGHAM, CLERK

By: 

Deputy Clerk