

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO

Civil Action No. 09-cv-02853-BNB

TIMOTHY HATTEN,

Plaintiff,

v.

J.C. HOLLAND,
R. ANDERT,
SARA REVELL,
BLAKE R. DAVIS,
D.J. HARMON,
J. CHAVEZ,
HARRELL WATTS,
MICHAEL K. NALLEY,
A. BARKER,
D. BORGERS,
B. OLMSTEAD,
RICHARD W. SCHOTT,
M. WACKER,
B. EISCHEN,
J.P. YOUNG,
KEN EVERHART,
N. FIELDS,
E. ALEXANDER,
V. VISIL,
GREGORY KIZZIAH,
M. GUTIERREZ,
CARL LaFARGUE, and
J. CRAMER,

Defendants.

FILED
UNITED STATES DISTRICT COURT
DENVER, COLORADO

JAN 19 2010

GREGORY C. LANGHAM
CLERK

ORDER OF DISMISSAL

Plaintiff, Timothy Hatten, is a prisoner in the custody of the United States Bureau of Prisons who currently is incarcerated at the Federal Correctional Institution in

Oakdale, Louisiana. Mr. Hatten initiated this action by filing a *pro se* Prisoner Complaint and a motion for leave to proceed *in forma pauperis* pursuant to 28 U.S.C. § 1915 on November 30, 2009. By order dated December 7, 2009, Magistrate Judge Boyd N. Boland directed the Clerk of the Court to commence a civil action and granted Mr. Hatten leave to proceed pursuant to 28 U.S.C. § 1915.

The December 7, 2009, Order requires Mr. Hatten to pay the full amount of the \$350.00 filing fee in installments and directs him to pay an initial partial filing fee of \$17.00 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. Hatten 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.

On December 29, 2009, Mr. Hatten filed a pleading titled, "Plaintiff's Motion of Response to the Courts [sic] Pending Ordered [sic] to Show Cause/ Plaintiff [sic] Request for Filing Fee to be Held in Abeyance Pending Institutional Transfer," in which he states that he does not have enough assets to pay the initial partial filing fee because he is not currently allowed to work at a prison job. Mr. Hatten attached an inmate trust fund account statement to his Motion. However, the account statement Mr. Hatten attached is deficient because it is not certified by either the warden or an appropriate officer at the facility where he is incarcerated.

Accordingly, Mr. Hatten now has failed either to pay the initial partial filing fee within the time allowed, as designated in the December 7, 2009, Order, or in the

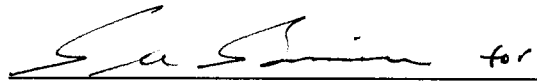
alternative to show cause why he has no assets and no means by which to pay the designated fee. Accordingly, it is

ORDERED that the Prisoner Complaint and the action are dismissed without prejudice for Mr. Hatten's failure either to pay an initial partial filing fee of \$17.00 or to show cause why he has no assets and no means by which to pay the designated fee. It is

FURTHER ORDERED that all pending motions are denied as moot.

DATED at Denver, Colorado, this 19th day of January, 2010.

BY THE COURT:

A handwritten signature in black ink, appearing to read "Philip A. Brimmer for", written over a horizontal line.

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-02853-BNB

Timothy Hatten
Reg No. 27993-004
FCI - Oakdale
P.O. Box 5000
Oakdale, LA 71463

I hereby certify that I have mailed a copy of the **ORDER AND JUDGMENT** to the above-named individuals on 1/19/10

GREGORY C. LANGHAM, CLERK

By: 

Deputy Clerk