

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO

Civil Action No. 09-cv-02907-BNB

FILED
UNITED STATES DISTRICT COURT
DENVER, COLORADO

MIGUEL ANGEL PUENTES-ROSABAL,

MAR 15 2010

Plaintiff,

GREGORY C. LANGHAM
CLERK

v.

JOHN W. SUTHERS, Attorney General, In his Personal and Official Capacity as
Attorney General,
DAVID R. FINE, Denver City Attorney, In his Personal and Official Capacity as Denver
City Attorney,
THE CITY AND COUNTY OF DENVER, A Municipal Corporation and as a County,
MITCHELL MORRISSEY, District Attorney for the Second Judicial District in Denver, In
his Personal and Official Capacity,
JOSEPH MORALES, Deputy District Attorney for the Second Judicial District in Denver,
In his Personal and Official Capacity, and
DANIEL CHUN, Investigator for the District Attorney for the Second Judicial District, In
his Personal and Official Capacity,

Defendants.

ORDER OF DISMISSAL

At the time Plaintiff, Miguel Angel Puentes-Rosabel, initiated the instant action, he was detained at the Denver County Jail in Denver, Colorado. On January 19, 2010, Plaintiff submitted several documents to the Court, noting he no longer is incarcerated and is residing in Denver, Colorado.

In an order entered on February 5, 2010, Magistrate Judge Boyd N. Boland instructed Plaintiff that because he no longer is incarcerated he is obligated to pay the filing fee like any nonprisoner, solely on the basis of whether he qualifies for *in forma pauperis* status. **See *Whitney v. New Mexico***, 113 F.3d 1170, 1171 n.1 (10th Cir.

1997); *see also McGore v. Wrigglesworth*, 114 F.3d 601, 612-13 (6th Cir. 1997); *In re Prison Litigation Reform Act*, 105 F.3d 1131, 1138-39 (6th Cir. 1997); *McGann v. Commissioner, Soc. Sec. Admin.*, 96 F.3d 28, 29-30 (2^d Cir. 1996).

Magistrate Judge Boland ordered Plaintiff either to submit an Amended Motion and Affidavit for Leave to Proceed Pursuant to 28 U.S.C. § 1915 or, in the alternative, to pay the \$350.00 filing fee in full if he desired to pursue his claims in this action. Plaintiff was warned that the action would be dismissed without further notice if he failed to comply with the February 5 Order within the time allowed.

Plaintiff now has failed to communicate with the Court and, as a result, he has failed to comply with Magistrate Judge Boland's February 5 Order within the time allowed. Accordingly, it is

ORDERED that the Complaint and action are dismissed because Plaintiff failed to comply with the Order entered on February 5, 2010, within the time allowed.

DATED at Denver, Colorado, this 15th day of March, 2010.

BY THE COURT:

s/Philip A. Brimmer
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-02907-BNB

Miguel A. Puentes-Rosabal
18404 E. Kepner Pl.
Apt #104
Aurora, CO 80017

I hereby certify that I have mailed a copy of the **ORDER AND JUDGMENT** to the
above-named individuals on 3/15/10

GREGORY C. LANGHAM, CLERK

By 

Deputy Clerk