

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO

Civil Action No. 10-cv-00158-BNB

CARL B. FORD, No. 013957,

Plaintiff,

v.

MR. LOVINGER, Under Sheriff, Denver Sheriff Department,
ROBERT STAUCH, Denver Deputy Sheriff, and
JAMES HERRERA, Deputy [sic] Deputy Sheriff,
All Defendant's [sic] in There [sic] Official and Ind[i]vidual Capacities [sic],

Defendants.

FILED
UNITED STATES DISTRICT COURT
DENVER, COLORADO

MAY 28 2010

GREGORY C. LANGHAM
CLERK

ORDER OF DISMISSAL

Plaintiff, Carl B. Ford, is in the custody of the Denver Sheriff's Department and is currently incarcerated at the Denver County Jail. Mr. Ford initiated this action by filing a Prisoner's Motion and Affidavit for Leave to Proceed Pursuant to 28 U.S.C. § 1915, and a Prisoner Complaint.

In an order entered on January 25, 2010, Magistrate Judge Boyd N. Boland directed the Clerk of the Court to commence a civil action and instructed Mr. Ford to cure certain deficiencies if he wished to pursue his claims. Specifically, Magistrate Judge Boland ordered Mr. Ford to submit a certified copy of his prisoner's trust fund statement for the 6-month period immediately preceding the filing. Mr. Ford was warned that the action would be dismissed without further notice if he failed to cure the deficiencies within thirty days.

On February 22, 2010, Mr. Ford filed a prisoner's trust fund statement that was notarized by a notary public instead of certified by an appropriate official at the Denver County Jail. By minute order dated February 23, 2010, Magistrate Judge Boland reminded Mr. Ford that he was required to submit a trust fund statement that was certified by an appropriate official, instead of notarized. Magistrate Judge Boland provided Mr. Ford additional time to submit a certified trust fund statement, and again warned him that his failure to comply would result in summary dismissal of the action.

On March 18, 2010, Mr. Ford filed another prisoner's trust fund statement that was notarized by public notary William H. Walters. Accordingly, on April 2, 2010, the Court dismissed this action without prejudice for Mr. Ford's failure, within the time allowed, to file a certified copy of his trust fund account statement from the appropriate prison official for the six-month period immediately preceding this filing.

On April 12, 2010, Mr. Ford, filed a *pro se* document titled "Motion to Order and Requesting Court to Intervene" asking the Court to reconsider and vacate the Order of Dismissal and the Judgment filed in this action on April 2, 2010. In the Motion, Mr. Ford clarified that public notary William H. Walters was also an officer at the facility in which he was incarcerated. The Court construed the filing as a Motion to Reconsider pursuant to Fed. R. Civ. P. 59(e). On April 19, 2010, the Court granted the Motion to Reconsider and reopened Mr. Ford's case. Magistrate Judge Boland then granted Mr. Ford leave to proceed pursuant to 28 U.S.C. § 1915 by order dated April 20, 2010.

The April 20 Order requires Mr. Ford to pay the full amount of the \$350.00 filing fee in installments and directs him to pay an initial partial filing fee of \$52.00 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. Ford 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.

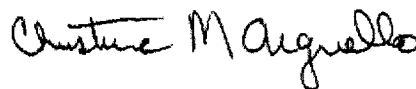
On May 3, 2010, Mr. Ford filed a certified inmate account statement and a letter to the Court. In the letter, Mr. Ford states that he "put in" for a money order in the amount of \$52.00 to be sent to the Court, but had not received it yet. Mr. Ford did not submit any documents substantiating his claim that he had requested a money order. Further, the inmate account statement submitted to the Court demonstrated that Mr. Ford had an available balance of \$193.00 in his inmate trust fund account.

Mr. Ford now has failed either to pay the initial partial filing fee within the time allowed, as designated in the April 20 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. Ford's failure either to pay an initial partial filing fee of \$52.00 or to show cause why he has no assets and no means by which to pay the designated fee.

DATED at Denver, Colorado, this 27th day of May, 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. 10-cv-00158-BNB

Carl B. Ford
Prisoner No. 013957
Denver County Jail
P.O. Box 1108
Denver, CO 80201

I hereby certify that I have mailed a copy of the **ORDER AND JUDGMENT** to the above-named individuals on 5/28/10

GREGORY C. LANGHAM, CLERK

By  _____

Deputy Clerk