

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO

Civil Action No. 10-cv-00173-ZLW

WARREN DANIEL CLINTON,

Plaintiff,

v.

FEDERAL BUREAU OF PRISONS, (Corporation), and
E. ALEXANDER, Regional Administrator,

Defendants.

FILED
UNITED STATES DISTRICT COURT
DENVER, COLORADO

APR 21 2010

GREGORY C. LANGHAM
CLERK

ORDER

This matter is before the Court on a letter titled, "Subject: Mail theft/Legal mail theft/Mail obstruction/Reprisals," filed by Plaintiff on April 9, 2010. Plaintiff, Warren Daniel Clinton, is a prisoner in the custody of the Federal Bureau of Prisons who is currently incarcerated at the United States Penitentiary Administrative Maximum (ADX) in Florence, Colorado. He initiated this action by filing an Order to Show Cause with the Court on January 21, 2010.

In an order filed on January 26, 2010, Magistrate Judge Boyd N. Boland directed the Clerk of the Court to commence a civil action and directed Mr. Clinton to cure certain deficiencies if he wished to pursue his claims. Specifically, Magistrate Judge Boland ordered Mr. Clinton to file a complaint on the court-approved form, and either pay the filing fee or file a motion seeking leave to proceed *in forma pauperis* pursuant to 28 U.S.C. § 1915.

Finding that Mr. Clinton had not communicated with the Court since January 21, 2010, and therefore had failed to cure the deficiencies, the Court dismissed Mr. Clinton's action without prejudice on March 4, 2010. Mr. Clinton then filed the instant letter. The Court must construe the filing liberally because Mr. Clinton is a *pro se* litigant. **See Haines v. Kerner**, 404 U.S. 519, 520-21 (1972); **Hall v. Bellmon**, 935 F.2d 1106, 1110 (10th Cir. 1991). The letter will be construed as a Motion to Reconsider. A litigant subject to an adverse judgment, and who seeks reconsideration by the district court of that adverse judgment, may "file either a motion to alter or amend the judgment pursuant to Fed. R. Civ. P. 59(e) or a motion seeking relief from the judgment pursuant to Fed. R. Civ. P. 60(b)." **Van Skiver v. United States**, 952 F.2d 1241, 1243 (10th Cir. 1991). A motion to reconsider filed more than twenty-eight days after the final judgment in an action should be considered pursuant to Rule 60(b). **See id.** at 1243. Mr. Clinton's Motion to Reconsider, which was filed more than twenty-eight days after the Judgment was entered in this action, will be considered pursuant to Fed. R. Civ. P. 60(b). Relief under Rule 60(b) is appropriate only in extraordinary circumstances. **See Massengale v. Oklahoma Bd. of Examiners in Optometry**, 30 F.3d 1325, 1330 (10th Cir. 1994).

In the Motion to Reconsider, Mr. Clinton alleges that officials at ADX have placed him on special mail restrictions in retaliation for filing lawsuits. He further alleges that due to the mail restrictions he is prevented from sending any legal mail to the Court and that any legal mail he sends is censored and confiscated by prison officials. Accordingly, Mr. Clinton asserts that he was unable to cure the deficiencies in this action due to the special mail restrictions and the retaliation by prison officials. The

Court finds that further briefing is required on the issues raised by Mr. Clinton.

Therefore, defendants will be ordered to file a response to Mr. Clinton's letter, filed on April 8, 2010, and address the allegations set forth above. Accordingly, it is

ORDERED that **within twenty-one (21) days from the date of this Order**

Defendants shall file a response that complies with this Order. It is

FURTHER ORDERED that **within twenty-one (21) days of the filing of the Response** Plaintiff may file a reply, if he desires.

DATED at Denver, Colorado, this 20th day of April, 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. 10-cv-00173-ZLW

Warren Daniel Clinton
Reg No. 88766-020
USP - Florence
PO Box 7000
Florence, CO 81226

United States Attorney General - **CERTIFIED**
Room 5111, Main Justice Bldg.
10th and Constitution, N.W.
Washington, D.C. 20530

Harley G. Lappin, Director- **CERTIFIED**
Federal Bureau of Prisons
320 First Street, N.W.
Washington, D.C. 20534

E. Alexander, Regional Administrator – **CERTIFIED**
North Central Regional Office
Gateway Complex, Tower 11 - 8th Floor
400 State Ave.
Kansas City, KS 66101-2492

United States Attorney
District of Colorado
DELIVERED ELECTRONICALLY

I hereby certify that I have mailed a copy of the ORDER to the above-named individuals, and the following forms to Harley Lappin for service of process on Federal Bureau of Prisons; to E. Alexander; The United States Attorney General; and to the United States Attorney's Office: LETTER FILED 4/08/10 on 7/21/10.

GREGORY C. LANGHAM, CLERK

By: _____



Deputy Clerk