

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLORADOFILED  
UNITED STATES DISTRICT COURT  
DENVER, COLORADO

Civil Action No.

'10 - CV - 00470

MAR 2 - 2010

JERRY MASKE,

GREGORY C. LANGHAM  
CLERK

Applicant,

v.

VALERIE ESTRADA, and  
THE ATTORNEY GENERAL OF THE STATE OF COLORADO,

Respondents.

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**ORDER DIRECTING CLERK TO COMMENCE CIVIL ACTION  
AND DISMISSING THE ACTION**

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Applicant Jerry Maske currently resides in Aurora, Colorado. Mr. Maske, acting *pro se*, submitted an Application for A Writ of Habeas Corpus Pursuant to 28 U.S.C. § 2254 to the Court on February 16, 2010. The Clerk of the Court will be directed to commence a civil action. For the reasons discussed below, the Court will dismiss the action.

The Court has permanently enjoined Mr. Maske from filing any *pro se* civil actions without first obtaining leave of the Court to proceed *pro se*. *See Maske v. IBM*, No. 09-cv-01805-ZLW, Doc. No. 5 (D. Colo. Nov. 5, 2009). In order to obtain permission to proceed *pro se*, Mr. Maske must submit with any civil action he seeks to file (1) a petition requesting leave to file a *pro se* action; (2) a list of all lawsuits currently pending or filed with this Court; (3) a list of all outstanding injunctions or orders limiting Mr. Maske's access to this court; and (4) a notarized affidavit that includes certain information. *See Maske v. Aurora Animal Care, et al.*, No. 09-cv-02751-ZLW, Doc. No. 2 (D. Colo. Nov. 24, 2009). The affidavit must include (1) a statement of the

issues Mr. Maske seeks to present, including a short discussion of the legal issues; (2) a certification that the legal arguments are not frivolous or repetitive of legal arguments previously presented to the Court and that they are warranted by existing law or a good-faith argument for extension, modification, or reversal of existing law; and (3) a statement by Mr. Maske that he will comply with all federal and local rules of this Court.

***Id.***

Although Mr. Maske submitted a notarized Petition that asserts (1) the order under which he is sanctioned; (2) the legal issues he is addressing; (3) the legal arguments; (4) the arguments are not frivolous or repetitive; and (5) he will follow all federal and local rules, he still fails to comply with the sanction order. Mr. Maske's certification that the arguments are not repetitive and that he will follow federal rules is belied by the § 2254 Application that he has submitted with the Petition. In the instant action, Mr. Maske challenges the assessed fine and the impoundment of his dogs in an Aurora, Colorado, Municipal Court proceeding. He has raised these issues in at least two previous actions. ***See Maske v. Aurora Animal Care, et al.***, No. 09-cv-02753-ZLW (D. Colo. Nov. 24, 2009); ***Maske v. Aurora Animal Care, et al.***, No. 09-cv-02751-ZLW (D. Colo. Nov. 24, 2009). Furthermore, even though he was instructed in Case Nos. 09-cv-02753-ZLW and 09-cv-02751-ZLW that pursuant to Rule 8 he must state a short and concise statement of the grounds for this Court's jurisdiction, he again fails to do so. Because Mr. Maske is not incarcerated with respect to the proceeding he is challenging, this Court lacks jurisdiction to review the merits of his claims. ***See Fleming v. Evans***, 481 F.3d 1249, 1252 n. 1 (10<sup>th</sup> Cir. 2007) (citing ***Oyler v. Allenbrand***, 23 F.3d 292, 293-94 (10<sup>th</sup> Cir. 1994)). Accordingly, it is


ORDERED that the Clerk of the Court commence this civil action. It is

FURTHER ORDERED that the Application is denied and the action is dismissed without prejudice for the reasons stated above. It is

FURTHER ORDERED that no certificate of appealability will issue because Mr. Maske has not made a substantial showing that jurists of reason would find it debatable whether the procedural ruling is correct and whether the underlying claim has constitutional merit.

DATED at Denver, Colorado, this   i   day of   March  , 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

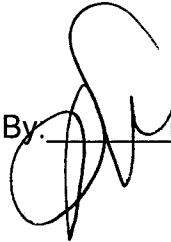
**CERTIFICATE OF MAILING**

Civil Action No. '10 - CV - 00470

Jerry Maske  
2705 Danube Way, Unit 101  
Aurora, CO 80013

I hereby certify that I have mailed a copy of the **ORDER AND JUDGMENT** to the  
above-named individuals on 3/2/10

GREGORY C. LANGHAM, CLERK

By:  \_\_\_\_\_  
Deputy Clerk