

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLORADO

Civil Action No. 10-cv-00803-BNB

LEOTIS DURWIN GREER,

Plaintiff,

v.

STATE OF COLORADO,  
MATTHEW S. HOLMAN, # 17846, First Assistant Attorney General, and  
JOHN W. SUTHERS,

Defendants.

**FILED**  
UNITED STATES DISTRICT COURT  
DENVER, COLORADO

AUG 20 2010

GREGORY C. LANGHAM  
CLERK

---

ORDER OF DISMISSAL

---

Plaintiff, Leotis Durwin Greer, is a prisoner in the custody of the Colorado Department of Corrections and is currently incarcerated at the Crowley County Correctional Facility in Olney Springs, Colorado. Mr. Greer initiated this action by submitting a letter to the Court on May 30, 2010.

By order dated April 8, 2010, Magistrate Judge Boyd N. Boland directed the Clerk of the Court to commence a civil action and instructed Mr. Greer to cure certain deficiencies if he wished to pursue his claims. Specifically, Magistrate Judge Boland ordered Mr. Greer to submit a Prisoner Complaint on the court-approved form, and a Motion and Affidavit for Leave to Proceed Pursuant to 28 U.S.C. § 1915 together with a certified copy of his prisoner's trust fund statement.

Mr. Greer filed a Prisoner Complaint and a Motion and Affidavit for Leave to Proceed Pursuant to 28 U.S.C. § 1915 on May 6, 2010. Magistrate Judge Craig B.

Shaffer granted him leave to proceed *in forma pauperis* by order dated May 12, 2010. The May 12 Order required Mr. Greer to pay an initial partial filing fee of \$2.00 or show cause why he could not. After receiving an extension of time, Mr. Greer paid the initial partial filing fee of \$2.00 on June 28, 2010.

On July 12, 2010, Magistrate Judge Boland determined that Mr. Greer's complaint was deficient because it failed to allege facts that demonstrated how the named Defendants personally participated in the asserted constitutional violations and because Mr. Greer was suing improper parties. Therefore, Mr. Greer was ordered to file an amended complaint and was warned that the action would be dismissed without further notice if he failed to file an amended pleading within thirty days.

On July 21, 2010, Mr. Greer filed a Motion requesting appointment of counsel, which Magistrate Judge Boland denied by Minute Order dated July 22, 2010.

Mr. Greer has now failed to file an amended complaint as directed by Magistrate Judge Boland, and he has not communicated with the Court since July 21, 2010. Therefore, Mr. Greer has failed to file an amended pleading within the time allowed and the Complaint and the action will be dismissed without prejudice. Accordingly, it is

ORDERED that the Complaint and this action are dismissed without prejudice pursuant to Rule 41(b) of the Federal Rules of Civil Procedure for failure to file an amended pleading within the time allowed and failure to prosecute.

DATED at Denver, Colorado, this 19th day of August, 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-00803-BNB

Leotis D. Greer  
Prisoner No. 95310  
Crowley County Corr. Facility  
6564 State Hwy. 96  
Olney Springs, CO 81062-8700

I hereby certify that I have mailed a copy of the **ORDER AND JUDGMENT** to the  
above-named individuals on 8/20/10

GREGORY C. LANGHAM, CLERK

By: 

Deputy Clerk