

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLORADO

Civil Action No. 10-cv-01015-BNB

JOSEPH VIGIL, DOC # 115946,

Plaintiff,

v.

EMILY BOND,  
OC ALBONICO,  
OC PIERCE,  
CMRC ADMINISTRATION,  
DEPT. OF CORRECTIONS,  
CHAPLAIN ALLEN PAYNE,  
BRETT YOUNGBLOOD, and  
COMMUNITY EDUCATION CENTERS,

Defendants.

FILED  
UNITED STATES DISTRICT COURT  
DENVER, COLORADO

JUL 13 2010

GREGORY C. LANGHAM  
CLERK

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ORDER OF DISMISSAL

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At the time of filing, Plaintiff, Joseph Vigil, was in the custody of the Colorado Department of Corrections and was incarcerated at the Cheyenne Mountain Re-Entry Center. On April 22, 2010, Mr. Vigil submitted to the Court a *pro se* Prisoner Complaint pursuant to 42 U.S.C. § 1983 and a Motion and Affidavit for Leave to Proceed Under 28 U.S.C. § 1915. On May 5, 2010, Magistrate Judge Boyd N. Boland directed the Clerk of the Court to commence a civil action, and directed Mr. Vigil to cure a deficiency. Specifically, he ordered Mr. Vigil to file a certified copy of his prisoner's trust fund statement for the 6-month period immediately preceding the filing.

Mr. Vigil filed a certified copy of his trust fund statement on May 20, 2010.

On May 25, 2010, Magistrate Judge Boland entered an order granting Mr. Vigil leave to proceed pursuant to 28 U.S.C. § 1915.

The May 25 Order requires Mr. Vigil to pay the full amount of the \$350.00 filing fee in installments and directs him to pay an initial partial filing fee of \$22.00 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. Vigil 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 June 1, 2010, Mr. Vigil filed a letter informing the Court that he had been moved to a new facility, and providing his new address. By Minute Order dated June 3, 2010, Magistrate Judge Boland directed the Clerk of the Court to remail the May 25 Order to Mr. Vigil's new address. Magistrate Judge Boland provided an additional thirty days for Mr. Vigil to either pay the \$22.00 filing fee or to show cause why he has no assets and no means by which to pay the initial fee by filing a current certified copy of his trust fund statement. The Court's May 25 Order was returned as undeliverable on June 4, 2010. The Court's June 3 Minute Order, which was sent to the new address provided by Mr. Vigil, was returned as undeliverable on June 28, 2010. The envelopes were marked "unable to forward."

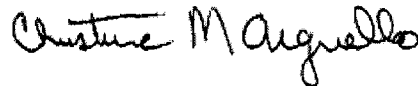
Mr. Vigil has now failed either to pay the initial partial filing fee within the time allowed, as designated in the May 25 Order, or in the alternative to show cause why he has no assets and no means by which to pay the designated fee. He has also failed to

notify the Court of his change of address in a timely manner as required by the Local Rules of Practice of this Court. **See** D.C.COLO.LCivR 10.1M. (notice of new address to be filed within five days after any change of address). Accordingly, it is

ORDERED that the Prisoner Complaint and the action are dismissed without prejudice for Mr. Vigil's failure either to pay an initial partial filing fee of \$22.00 or to show cause why he has no assets and no means by which to pay the designated fee.

DATED at Denver, Colorado, this 12th day of July, 2010.

BY THE COURT:



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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-01015-BNB

Joseph Vigil  
Prisoner No. 115946  
ComCor Diversion Facility of El Paso County  
3950 North Nevada Avenue  
Colorado Springs, CO 80907

I hereby certify that I have mailed a copy of the **ORDER AND JUDGMENT** the  
above-named individuals on 7/13/10

GREGORY C. LANGHAM, CLERK

By: 

Deputy Clerk