

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLORADO

Civil Action No. 10-cv-01121-BNB

JACOB DANIEL OAKLEY,

Plaintiff,

v.

ARISTEDES ZAVARAS, Executive Director,  
SUSAN JONES, Warden,  
BOYD, Nurse Practitioner,  
ALLENBERG, P.A.,  
TURNER,  
PEGGY SUE SLASL,  
C/O SANTOS,  
C/O DALTON,  
C/O DUTY,  
SGT. McFEE,  
JACK BAUBAKE, Lt.  
SGT. ROMAN,  
SGT. JEWEL WEST,  
KEVIN KAUCHER, Lt. or Sgt.,  
RENEA WILL, Lt.,  
KRAUER, C.O or Lt.,  
JOHN AND JANE DO x 150 at C.T.C.F.,  
JOHN AND JANE DOE x 150 at S.C.C.F.,  
JOHN AND JANE DOE x 150 at C.S.P., and  
JOHN AND JANE DOE x 450 at C.T.C.F., S.C.C.F., and C.S.P.,

Defendants.

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

OCT 28 2010

GREGORY C. LANGHAM  
CLERK

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ORDER OF DISMISSAL

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Plaintiff, Jacob Daniel Oakley, is a prisoner in the custody of the Colorado Department of Corrections who currently is incarcerated at the Centennial Correctional Facility in Cañon City, Colorado. Mr. Oakley, acting *pro se*, initiated this action by filing a Letter and a pleading titled "Emergency Medical Order and Notice of Intent to Sue Employees of (D.O.C.)." Magistrate Judge Craig B. Shaffer entered an order on May

14, 2010 instructing Mr. Oakley that he must file his claims on a Court-approved form used in filing prisoner complaints, which Mr. Oakley did on June 21, 2010. Upon review of the Prisoner Complaint, Magistrate Judge Shaffer determined that Mr. Oakley had failed to assert personal participation by named defendants and ordered Mr. Oakley to file an Amended Prisoner Complaint, which he did on August 9, 2010.

Magistrate Judge Boyd N. Boland reviewed the Amended Complaint and entered an order on August 16, 2010 instructing Mr. Oakley to file a Second Amended Complaint. Magistrate Judge Boland found that Mr. Oakley's handwriting is difficult to read, which makes understanding his allegations difficult. Magistrate Judge Boland also determined that Mr. Oakley had single-spaced his pleading, which was another reason why the Amended Complaint was difficult to read. Rule 10.1 of the Local Rules of Practice for this Court requires that all papers filed in cases in this Court be double-spaced and legible. **See** D.C.COLO.LCivR 10.1E. and G. Mr. Oakley, therefore, was instructed to double-space and legibly write a Second Amended Complaint.

Also in the August 16 Order, Magistrate Judge Boland instructed Mr. Oakley to assert personal participation by each named defendant and to comply with Fed. R. Civ. P. 8 and ***Nasious v. Two Unknown B.I.C.E. Agents***, 492 F.3d 1158, 1163 (10th Cir. 2007), in the Second Amended Complaint. On September 21, 2010, Mr. Oakley filed a request for an extension of time to file the Second Amended Complaint. Magistrate Judge Boland granted the request on September 22, 2010 and allowed Mr. Oakley an additional thirty days to file the Second Amended Complaint. Mr. Oakley now has failed to communicate with the Court and as a result has failed to file Second Amended Complaint within the time allowed.

Upon review of the Complaint and the Amended Complaint, the Court finds that Magistrate Judges Boland and Shaffer correctly instructed Mr. Oakley to amend and assert what the named defendants did to violate his constitutional rights and to file a complaint that complies with this Court's Local Rules and Rule 8 of the Federal Rules of Civil Procedure. Because Mr. Oakley has failed to file a Second Amended Complaint within the time allowed the action will be dismissed. Nonetheless, since the action will be dismissed without prejudice, Mr. Oakley may proceed with his claims in a new action if he so desires. Accordingly, it is

ORDERED that the Complaint and action are dismissed without prejudice pursuant to Fed. R. Civ. P. 41(b) for failure to file an Amended Complaint and for failure to prosecute.

DATED at Denver, Colorado, this 28th day of October, 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-01121-BNB

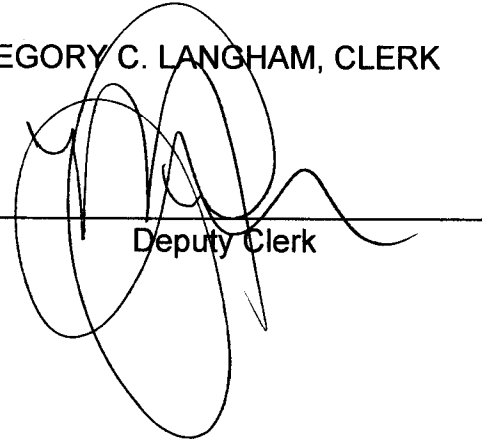
Jacob Daniel Oakley  
Prisoner No. 123294  
Colorado State Penitentiary  
P.O. Box 777  
Cañon City, CO 81215-0777

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

GREGORY C. LANGHAM, CLERK

By: \_\_\_\_\_

Deputy Clerk

A large, stylized handwritten signature in black ink, consisting of several overlapping loops and a long horizontal stroke extending to the right. The signature is written over a horizontal line that serves as a baseline for the signature.