

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO

Civil Action No. 10-cv-01371-BNB

VIRGIL F. RICE,

Plaintiff,

v.

LARIMER COUNTY COLORADO,
SHERIFF JAMES ALDERDEN,
MAJ. WILLIAM NELSON,
LT. PATRICK McCOSH,
DIR. LAURIE STOLEN,
SANDRA GRIFFIN, RN,
MARGO GEPPERT, MD,
JACK HALEY, PA,
DAVID AYRAUD,
GEORGE HASS,
THE HONORABLE DAVE WILLIAMS,
TIMOTHY WIRT, MD,
CORRECTIONAL HEALTHCARE MANAGEMENT, INC.,
THE 8TH JUDICIAL DISTRICT,
JAMES ALDERDEN, Individually,
WILLIAM NELSON, Individually,
PATRICK McCOSH, Individually,
LAURIE STOLEN, Individually,
SANDRA GRIFFIN, Individually,
MARGO GEPPERT, Individually,
JACK HALEY, Individually,
DAVID AYRAUD, Individually, and
DAVE WILLIAMS, Individually,

Defendants.

FILED
UNITED STATES DISTRICT COURT
DENVER, COLORADO

AUG 18 2010

GREGORY C. LANGHAM
CLERK

ORDER OF DISMISSAL

When Plaintiff, Virgil F. Rice, initiated the instant Prisoner Complaint on June 2, 2010, he was detained at the Larimer County Detention Facility in Fort Collins, Colorado. Upon review of the merits of the Complaint, Magistrate Judge Craig B.

Shaffer entered an order on July 6, 2010, directing Mr. Rice to file an Amended Complaint. Plaintiff specifically was instructed to amend the Complaint to comply with Fed. R. Civ. P. 8(a) and to assert personal participation by each named defendant. Plaintiff also was instructed to state what each named defendant did to him, when defendants did it, how their action harmed him, and what specific legal right they violated. **See *Nasious v. Two Unknown B.I.C.E. Agents***, 492 F.3d 1158, 1163 (10th Cir. 2007).

On July 16, 2010, the copy of the July 6 Order sent to plaintiff was returned to the Court in an envelope marked "Return to Sender Not Deliverable as Addressed Unable to Forward Return to Sender." Pursuant to Rule 10.1M. of the Local Rules of Practice of the United States District Court for the District of Colorado-Civil, a party must file a notice of a new address within ten days of any change of address. On June 28, 2010, Mr. Rice submitted a Letter to the Court indicating that he was to be transferred to the Colorado Department of Corrections (DOC) on Monday, June 28, 2010. Mr. Rice requested that the Court contact the public defender in his state criminal case to acquire his new mailing address. Magistrate Judge Boyd N. Boland entered a minute order on June 30, 2010 instructing Mr. Rice that he is responsible for informing the Court of a change of address within ten days of the change. The copy of the June 30 Minute Order that was sent to Mr. Rice at the Larimer County Detention Facility address was also returned to the Court as undeliverable. Even though Mr. Rice did not receive the June 30 Minute Order, this Court is not responsible for contacting third parties to acquire Mr. Rice's new address.

By at least July 1, 2010, Mr. Rice was no longer housed at the Larimer Detention

Facility (**see** Doc. No. 13) and has not submitted to the Court a change of address notice within ten days of that time. Mr. Rice has failed to communicate with the Court and, as a result, he has failed to comply with Magistrate Judge Shaffer's July 6 Order to File Amended Complaint within the time allowed.

Upon review of the Complaint, the Court finds that Magistrate Judge Shaffer correctly determined that Mr. Rice's Complaint is deficient and that Mr. Rice is required to amend the Complaint in keeping with Rule 8 and **Nasious**. Therefore, the Complaint will be dismissed for failure to amend and to prosecute. 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 17th 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

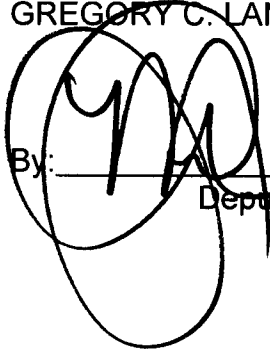
CERTIFICATE OF MAILING

Civil Action No. 10-cv-01370-BNB

Virgil F. Rice
Prisoner No. 0812864
Larimer County Det. Center
2405 Midpoint Dr.
Fort Collins, CO 80525

I hereby certify that I have mailed a copy of the **ORDER AND JUDGMENT** to the above-named individuals on 8/18/10

GREGORY C. LANGHAM, CLERK

By:  _____
Deputy Clerk