

FILED
UNITED STATES DISTRICT COURT
DENVER, COLORADO

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO

JUN 23 2010

GREGORY C. LANGHAM
CLERK

Civil Action No. '10 - CV - 01479

MANUEL SESARIO DePINEDA,

Plaintiff,

v.

ARI ZAVARAS, Executive Director, C.D.O.C.,

Defendant.

ORDER DIRECTING CLERK TO COMMENCE CIVIL ACTION AND
DISMISSING THE ACTION

Plaintiff Manuel Sesario DePineda has submitted to the Court *pro se* a "Writ of Mandamus 28 USC 1651(a)(b) and 5 USC 706(2)(A) Administrative Procedure Act." The Clerk of the Court will be directed to commence a civil action. For the reasons stated below, the action will be dismissed.

Mr. DePineda is subject to a sanction order that restricts his ability to file *pro se* actions in this court. *See DePineda v. State of Colorado*, No. 98-cv-02067-ZLW (D. Colo. Feb. 25, 1999). In 98-cv-02067-ZLW, Mr. DePineda was "prohibited from initiating a lawsuit in this Court unless he is represented by a licensed attorney admitted to practice in this Court or unless he obtains permission to proceed *pro se* by following the procedures listed in Appendix A." *Id.* at 1-2. The procedures listed in Appendix A to the sanction order entered in 98-cv-02067-ZLW require Mr. DePineda to submit to the Court a petition titled "Petition Pursuant to Court Order Seeking Leave to File a *Pro*

Se Action," an affidavit, and a copy of the complaint or other papers sought to be filed **pro se**. Mr. DePineda is not represented by an attorney in this action and he has not obtained leave of court to proceed **pro se**. In fact, Mr. DePineda has not even filed a proper petition seeking leave of court to proceed **pro se** as required by the procedures set forth in Appendix A to the Court's sanction order in 98-cv-02067-ZLW. Therefore, the action will be dismissed for failure to comply with the sanction order. Accordingly, it is

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

FURTHER ORDERED that the action is dismissed without prejudice for failure to comply with the sanction order restricting Plaintiff's ability to file **pro se** actions in this Court.

DATED at Denver, Colorado, this 23rd day of June, 2010.

BY THE COURT:



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

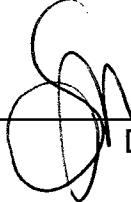
CERTIFICATE OF MAILING

Civil Action No. '10 - CV - 01479

Manuel Sesario DePineda
Prisoner No. 59436
Sterling Correctional Facility
PO Box 6000
Sterling, CO 80751

I hereby certify that I have mailed a copy of the **ORDER AND JUDGMENT** to the
above-named individuals on 6/23/10

GREGORY C. LANGHAM, CLERK

By:  _____
Deputy Clerk