

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO

Civil Action No. 10-cv-01515-BNB

DONTE ROGERS,

Plaintiff,

v.

THE STATE OF COLORADO, et al.,
OFFICE OF THE ATTORNEY GENERAL, and
DENVER POLICE DEPARTMENT, DISTRICT SIX,

Defendants.

FILED
UNITED STATES DISTRICT COURT
DENVER, COLORADO

AUG 20 2010

GREGORY C. LANGHAM
CLERK

ORDER OF DISMISSAL

Plaintiff, Donte Rogers, acting *pro se*, initiated this action by filing a Prisoner Complaint and a Prisoner's Motion and Affidavit for Leave to Proceed Pursuant to 28 U.S.C. § 1915. Upon review of the merits of the Complaint, Magistrate Judge Boyd N. Boland entered an order on July 13, 2010 directing Mr. Rogers to file an Amended Complaint. Mr. Rogers was instructed to name proper defendants and to assert personal participation by each named defendant. Mr. Rogers, in keeping with *Nasious v. Two Unknown B.I.C.E. Agents*, 492 F.3d 1158, 1163 (10th Cir. 2007), also was instructed to submit an Amended Complaint that explains what each defendant did to harm him, when the defendant did the harmful act, how he was injured, and what specific legal right the defendant violated. Mr. Rogers was warned that if he failed to file an Amended Complaint within the time allowed the Complaint and the action would be dismissed.

On July 29, 2010, Mr. Rogers submitted a Motion to Appoint counsel. Magistrate Judge Boland denied the motion as premature and without sufficient legal basis. Mr. Rogers now has failed to communicate with the Court and, as a result, has failed to amend the Complaint within the time allowed.

Upon review of the Complaint, the Court finds that Magistrate Judge Boland correctly instructed Mr. Rogers to amend and assert what named defendants did to violate his constitutional rights. Because Mr. Rogers has failed to amend the Complaint within the time allowed the action will be dismissed. Nonetheless, since the Complaint and action will be dismissed without prejudice, Mr. Rogers 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 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-01515-BNB

Donte Rogers
Prisoner No. 580944
Denver County Jail
P.O. Box 1108
Denver, CO 80201

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