

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLORADO

Civil Action No. 10-cv-01635-BNB

CESAR RYAN MARQUEZ,

Plaintiff,

v.

CITY OF LONGMONT,  
OFFICER JARED GEOKE,  
OFFICER POLLOCK, and  
OFFICER "JOHN DOE" May 21, 2009[,] 7:30 p.m.,

Defendants.

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

OCT - 6 2010

**GREGORY C. LANGHAM**  
CLERK

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ORDER OF DISMISSAL

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Plaintiff, Cesar Ryan Marquez, currently is incarcerated at the Boulder, Colorado county jail. He submitted to the Court *pro se* a Prisoner Complaint and a Prisoner's Motion and Affidavit for Leave to Proceed Pursuant to 28 U.S.C. § 1915.

On July 22, 2010, Magistrate Judge Boyd N. Boland granted the § 1915 motion, allowed him to proceed pursuant to § 1915 without payment of an initial partial filing fee, and required Mr. Marquez to pay the full amount of the \$350.00 filing fee in installments regardless of the outcome of this action. The July 22 order informed Mr. Marquez that, until the \$350.00 filing fee is paid in full, he was required to make monthly payments of twenty percent of the preceding month's income credited to his trust fund account or show cause each month why he had no assets and no means by which to make the monthly payment by filing a current copy of his trust fund account statement.

On August 6, 2010, Magistrate Judge Boland ordered Mr. Marquez to file within thirty days an amended complaint that sued the proper parties, alleged the personal participation of each named Defendant, and complied with the pleading requirements of Rule 8 of the Federal Rules of Civil Procedure. On August 11, 2010, Mr. Marquez filed a letter informing the Court he was unable to make monthly filing fee payments. On August 13, 2010, Magistrate Judge Boland entered a minute order directing Mr. Marquez to comply with the July 22 order and make the necessary arrangements for the monthly filing fee payments, or show cause as directed each month why he was unable to make the monthly payments. The August 13 minute order reminded Mr. Marquez that he had until September 7, 2010, to file an amended complaint that complied with the Court's August 6 order.

On September 2, 2010, Mr. Marquez filed an amended complaint. On September 7, 2010, he filed a motion titled "Motion to Set Up Payment Plan." On September 8, 2010, Magistrate Judge Boland entered a minute order denying the September 7 motion and directing Mr. Marquez to comply with the July 22 order, which explained the payment plan acceptable to the Court. The September 8 minute order allowed Mr. Marquez twenty days either to make the necessary arrangements for the monthly payments in compliance with the July 22 order or to demonstrate why he was unable to comply by providing documentation from the Boulder County Jail.

Mr. Marquez has failed, within the time allowed, to comply with the September 8 minute order or otherwise to communicate with the Court in any way. Therefore, the amended complaint and the action will be dismissed. Accordingly, it is

ORDERED that the amended Prisoner Complaint and this action are dismissed without prejudice pursuant to Rule 41(b) of the Federal Rules of Civil Procedure for the failure of Plaintiff, Cesar Ryan Marquez, within the time allowed, to make monthly filing fee payments in compliance with the July 22, 2010 order, to show cause as directed in the July 22 order why he was unable to do so, or to demonstrate why he was unable to comply with the July 22 order by providing documentation from the Boulder County Jail, and for his failure to prosecute.

DATED at Denver, Colorado, this 6th 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-01635-BNB

Cesar R. Marquez  
Prisoner No. P00099900  
Boulder County Jail  
3200 Airport Rd.  
Boulder, CO 80301

I hereby certify that I have mailed a copy of the **ORDER AND JUDGMENT** to the above-named individuals on 10/16/10

GREGORY C. LANGHAM, CLERK

By: 

Deputy Clerk