

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLORADO

Civil Action No. 10-cv-01659-BNB

MARK J. DENNY,

Plaintiff,

v.

B. DAVIS, Warden,  
SIGLER, A.W.,  
R. HODAK, Captain,  
S. BROWN, SIS,  
SINDER, SHU LT.,  
JOHN DOE, Psych Staff,  
JOHN DOES 1 through 6, C.O.,  
WATSON, LT.,  
REYNOLDS, C.O.,  
CHECON, C.O., and

A.C., C.O., Each Defendant is sued individually and in his official capacities, their officers, agents, employees, assigns and successors, any unknown person involved, et al.,

Defendants.

FILED  
UNITED STATES DISTRICT COURT  
DENVER, COLORADO

NOV 05 2010

GREGORY C. LANGHAM  
CLERK

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ORDER OF DISMISSAL

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Plaintiff, Mark J. Denny, is a prisoner in the custody of the United States Bureau of Prisons, who currently is incarcerated at ADX Florence. Mr. Denny, acting *pro se*, initiated this action by filing a Prisoner Complaint. Upon review of the Prisoner Complaint, Magistrate Judge Boyd N. Boland entered an order on August 23, 2010, instructing Mr. Denny that he had failed to assert personal participation by named defendants and ordering him to file an Amended Prisoner Complaint. Although Mr. Denny filed an amended complaint on the same day that Magistrate Judge Boland entered the order instructing him to amend, and a second amended complaint on

August 30, 2010, the amended complaints do not address the deficiencies identified in Magistrate Judge Boland's August 23 Order Directing Plaintiff to Amend.


Subsequently, on September 17, 2010, Mr. Denny filed a request for an extension of time to file an amended complaint in keeping with the August 23 Order. Magistrate Judge Boland granted the request on September 23, 2010, and allowed Mr. Denny an additional thirty days to file an amended complaint that complies with the August 23 Order. Mr. Denny now has failed to communicate with the Court and as a result has failed to file a proper amended complaint within the time allowed.

Upon review of the original Complaint and both amended complaints, the Court finds that Magistrate Judge Boland correctly instructed Mr. Denny to amend and file a complaint that complies with *Nasious v. Two Unknown B.I.C.E. Agents*, 492 F.3d 1158, 1163 (10th Cir. 2007). Because Mr. Denny has failed to file an amended complaint that complies with the August 23 Order within the time allowed the action will be dismissed. Nonetheless, since the action will be dismissed without prejudice, Mr. Denny 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 4th day of November, 2010.

BY THE COURT:



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CHRISTINE M. ARGUELLO  
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-01659-BNB

Mark J. Denny  
Reg No. 07757-046  
ADX – Florence  
P.O. Box 8500  
Florence, CO 81226

I hereby certify that I have mailed a copy of the **ORDER AND JUDGMENT** to the above-named individuals on 11/5/10

GREGORY C. LANGHAM, CLERK

By: 

Deputy Clerk