

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLORADO

Civil Action No. 10-cv-01966-BNB

PHILLIP D. BACA,

Applicant,

v.

TAMARA RUSSELL, Judge,  
WHEAT RIDGE POLICE DEPT.,  
JESSE MASCIOTRO, Supervisor (Pretrial Services),  
JEFFERSON COUNTY PROBATION DEPT.,  
JENNA REULBACH,  
BRANDON O'NEILL, and,  
ELAINE KAHLER,

Defendants.

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

OCT 14 2010

GREGORY C. LANGHAM  
CLERK

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ORDER OF DISMISSAL

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Plaintiff, Phillip Baca, initiated this action on August 3, 2010, by filing a Motion and Affidavit for Leave to Proceed Pursuant to 28 U.S.C. § 1915. He filed *pro se* two similar but not identical Prisoner Complaints on August 18, 2010 [Doc Nos. 3 and 4], asserting violations of his constitutional rights under 42 U.S.C. § 1983. Mr. Baca filed a partial amendment to his Complaint(s) on August 25, 2010 [Doc. No. 6] in an attempt to cure deficiencies. He has been granted leave to proceed *in forma pauperis*.

On September 7, 2010, Magistrate Judge Boyd N. Boland determined that Plaintiff's pleadings, construed liberally and together, were deficient because the claims appeared to be barred, in whole or in part, by *Heck v. Humphrey*, 512 U.S. 477 (1994), were asserted against improper Defendants, failed to allege specific facts to support

liability against the Defendants under § 1983, and generally failed to comply with the pleading requirements of Fed. R. Civ. P. Rule 8. Accordingly, Plaintiff was ordered to file a [second] amended complaint within thirty (30) days. The September 7 Order warned Mr. Baca that his failure to comply with the Court's Order within the time allowed would result in dismissal of the action without further notice.

Mr. Baca has failed to file a [second] amended complaint as directed by the Court's September 7 Order. Accordingly, it is

ORDERED that the action is dismissed without prejudice pursuant to Rule 41(b) of the Federal Rules of Civil Procedure for the failure of Plaintiff, Phillip D. Baca, to comply with the Order to File Amended Complaint, dated September 7, 2010.

DATED at Denver, Colorado, this 14th day of October, 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

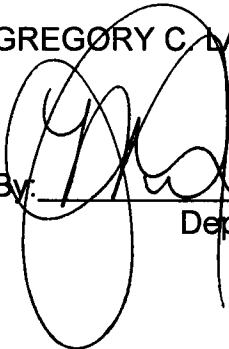
**CERTIFICATE OF MAILING**

Civil Action No. 10-cv-01966-BNB

Phillip D. Baca  
Prisoner No. 147072  
Fort Lyon Corr. Facility  
P.O. Box 1000  
Fort Lyon, CO 81038

I hereby certify that I have mailed a copy of the **ORDER AND JUDGMENT** to the above-named individuals on 10/14/10

GREGORY C. LANGHAM, CLERK

By:  \_\_\_\_\_  
Deputy Clerk