

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO**FILED**
UNITED STATES DISTRICT COURT
DENVER, COLORADO

Civil Action No. 10-cv-01976-BNB

GARY ANTHONY COLE, SR., # 22707-077,

Plaintiff,

SEP 29 2010

GREGORY C. LANGHAM
CLERK

v.

THE UNITED STATES DISTRICT COURT, for the Northern District of Texas,
THE UNITED STATES COURT OF APPEALS, for the Fifth (5th) Circuit,
THE FEDERAL BUREAU OF PRISONS,
UNITED STATES PENITENTIARY-FLORENCE-SUPER MAX,
B. DAVIS, Warden-C.E.O., and
GOVERNMENT AGENCIES, et al.,

Defendants.

ORDER OF DISMISSAL

Plaintiff, Gary Anthony Cole, is in the custody of the United States Bureau of Prisons and currently is incarcerated at ADX in Florence, Colorado. Mr. Cole, acting *pro se*, initiated this action by filing a "Motion for 28 U.S.C. 1361, Action to Compel Government Officers, Motion to Show Cause of Imminent Danger as to Serious Physical Injury, 28 U.S.C. 1915(g)" and a Prisoner's Motion and Affidavit Pursuant to 28 U.S.C. § 1915 in a Habeas Action. In an order entered on August 18, 2010, Magistrate Judge Boyd N. Boland directed the Clerk of the Court to commence a civil action and instructed Mr. Cole to cure certain deficiencies in his Complaint. Specifically, Magistrate Judge Boland directed Mr. Cole to submit his claims and his request to proceed pursuant to § 1915 on proper Court-Approved forms. Magistrate Judge Boland further instructed Mr. Cole to submit a certified copy of his prison account statement for the six months immediately preceding the filing of this action.

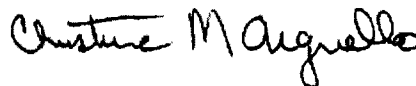
Magistrate Judge Boland warned Mr. Cole that the action would be dismissed without further notice if he failed to cure the deficiencies within thirty days. Rather than cure the deficiencies, Mr. Cole submitted a Letter to the Court on August 25, 2010, asking that the Court provide injunctive relief without requiring that he file a law suit. Magistrate Judge Boland denied Mr. Cole's request and instructed him that to seek either money damages or injunctive relief in this Court he must proceed with an action and assert his claims on a Court-approved form. Magistrate Judge Boland reminded Mr. Cole that he still was required to cure the deficiencies noted in the Court's Order of August 18, 2010, within the time allowed.

Subsequently, Mr. Cole submitted a certified copy of his trust fund account and a Letter requesting that four of the named Defendants be dismissed from the action. Mr. Cole, however, has failed to submit his claims and his request to proceed pursuant to § 1915 on Court-approved forms within the time allowed. Therefore, the action will be dismissed without prejudice for failure to cure all of the noted deficiencies. Accordingly, it is

ORDERED that the Complaint and action are dismissed without prejudice pursuant to Fed. R. Civ. P. 41(b) for failure to cure the deficiencies and for failure to prosecute.

DATED at Denver, Colorado, this 28th day of September, 2010.

BY THE COURT:



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-01976-BNB

Gary Anthony Cole, Sr.
Reg No. 22707-077
US Penitentiary ADX
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 9/29/10

GREGORY C. LANGHAM, CLERK

By: 

Deputy Clerk