

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO

Civil Action No. 10-cv-02475-BNB

DOSSIE L. HOWARD, III,

Plaintiff,

v.

WELLS FARGO BANK,

Defendant,

FILED
UNITED STATES DISTRICT COURT
DENVER, COLORADO

NOV 19 2010

GREGORY C. LANGHAM
CLERK

ORDER OF DISMISSAL

Plaintiff, Dossie L. Howard, III, an inmate in the Denver County Jail, initiated this action by filing *pro se* a "Motion to Retrieve Money, Non-Fraudulent."

In an order filed on October 12, 2010, Magistrate Judge Boyd N. Boland directed Mr. Howard to cure certain enumerated deficiencies in this case within thirty days. Specifically, Mr. Howard was ordered to submit a Motion and Affidavit for Leave to Proceed Pursuant to 28 U.S.C. § 1915, along with a certified copy of his prisoner's trust fund account statement for the 6-month period immediately preceding the filing, or to pay the \$350.00 filing fee. Plaintiff was also directed to submit a Complaint on the court-approved form. The October 12 Order warned Mr. Howard that if he failed to cure the designated deficiencies within the time allowed, the action would be dismissed without further notice.

On October 27, 2010, Mr. Howard filed a Complaint and a Prisoner's Motion and Affidavit for Leave to Proceed Pursuant to 28 U.S.C. § 1915 on the court-approved forms, as directed in the October 12 Order. However, Mr. Howard did not submit a

copy of his trust fund account statement for the preceding six month period, certified by the appropriate official at his penal institution. Therefore, Mr. Howard has failed to cure the designated deficiencies within the time allowed. Mr. Howard is well aware of the statutory requirement that he submit a certified copy of his trust fund account statement, see 28 U.S.C. § 1915(a)(2), given the numerous other civil cases and Motions for Leave to Proceed Pursuant to 28 U.S.C. § 1915 that he has filed in this Court. See Civil Action Nos. 03-cv-00346-ZLW; 05-cv-01600-ZLW; 07-cv-01265-ZLW; 06-cv-02558-ZLW; 07-cv-00440-ZLW; 08-cv-00888-ZLW; 10-cv-01314-ZLW; 10-cv-02192-BNB; 10-cv-02247-ZLW; 10-cv-02328-ZLW;¹ and 10-cv-02623-BNB.

Accordingly, it is

ORDERED that the action be dismissed without prejudice pursuant to Rule 41(b) of the Federal Rules of Civil Procedure for the failure of Plaintiff, Dossie L. Howard, III, to comply with the order to cure dated October 12, 2010.

DATED at Denver, Colorado, this 18th day of November, 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

¹The Court notes that in Civil Action No. 10-cv-02328-ZLW, Mr. Howard also sued Wells Fargo Bank, along with the "Denver Sheriff's Staff," asserting the same claim(s) he raises in this action. The Court dismissed Civil Action No. 10-cv-02328-ZLW as legally frivolous on November 12, 2010. Mr. Howard is advised for future filings that repetitious litigation of virtually identical causes of action may be dismissed as frivolous or malicious. See *Balley v. Johnson*, 846 F.2d 1019, 1021 (5th Cir. 1988) (per curiam); *Van Meter v. Morgan*, 518 F.2d 366, 368 (8th Cir. 1975) (per curiam). The Court may consult its own records to determine whether a pleading repeats pending or previously litigated claims. See *Duhart v. Carlson*, 469 F.2d 471 (10th Cir. 1972).

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO

CERTIFICATE OF MAILING

Civil Action No. 10-cv-02475-BNB

Dossie L. Howard III
Prisoner No. 2010-039139
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 11/19/10

GREGORY C. LANGHAM, CLERK

By: 

Deputy Clerk