

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO

FILED
UNITED STATES DISTRICT COURT
DENVER, COLORADO

FEB 10 2011

GREGORY C. LANGHAM
CLERK

Civil Action No. 10-cv-02782-BNB

ANTONIO JOSE VARGAS,

Plaintiff,

v.

HARRY ALEJO,
PATRICK GATTENBY,
RALPH LASASSO,
GERRY SPANGLER,
PATTY SWIFT,
BRIEND CECIL,
LT. MR. BOMEN,
STEVEN ORTIZ, and
JANE & JOHN DOE'S,

Defendants.

ORDER OF DISMISSAL

Plaintiff, Antonio Jose Vargas, is a prisoner in the custody of the Colorado Department of Corrections (DOC) who currently is incarcerated at the Limon Correctional Facility in Limon, Colorado. Mr. Vargas initiated this action by filing a letter with the Court on November 15, 2010. By order dated November 18, 2010, Magistrate Judge Boyd N. Boland directed Mr. Vargas to cure certain deficiencies in this action. Specifically, he ordered Mr. Vargas to file a certified copy of his prisoner's trust fund statement for the 6-month period immediate preceding the filing. He also directed Mr. Vargas to file a Prisoner Complaint on the Court-approved form.

Mr. Vargas cured the deficiencies in this action on December 7, 2010, and Magistrate Judge Boland granted Mr. Vargas leave to proceed pursuant to § 1915 by

order dated December 10, 2010. He further directed Mr. Vargas to pay an initial partial filing fee of \$20.00 within thirty days, which Mr. Vargas submitted to the Court on December 29, 2010.

On January 4, 2011, Magistrate Judge Boland determined that Mr. Vargas' complaint was deficient because it failed to comply with Rule 8 of the Federal Rules of Civil Procedure and because Mr. Vargas failed to allege the personal participation of all the named defendants. Mr. Vargas was directed to file an amended complaint. Mr. Vargas was warned that the action would be dismissed without further notice if he failed to file an amended pleading within thirty days.

Mr. Vargas has failed to file an amended complaint within the time provided, as directed by Magistrate Judge Boland, and he has not communicated with the Court since December 7, 2010. No mail has been returned to the Court as undeliverable. As a result, Mr. Vargas has failed to file an amended pleading within the time allowed. Therefore, the complaint and action will be dismissed without prejudice. Accordingly, it is

ORDERED that the complaint and this action are dismissed without prejudice pursuant to Federal Rule of Civil Procedure 41(b) for failure to file an amended pleading within the time allowed. It is

FURTHER ORDERED that all pending motions are denied as moot.

DATED at Denver, Colorado, this 10th day of February, 2011.

BY THE COURT:

A handwritten signature in black ink, reading "Zita Leeson Weinsienk". The signature is written in a cursive style with a large initial "Z".

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-02782-BNB

Antonio Jose Vargas
Prisoner No. 58211
Limon Correctional Facility
49030 State Hwy. 71
Limon, CO 80826

I hereby certify that I have mailed a copy of the **ORDER and JUDGMENT** to the above-named individuals on February 10, 2011.

GREGORY C. LANGHAM, CLERK

By:  _____
Deputy Clerk