

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

Civil Action No. 10-cv-02884-BNB

MAR 17 2011

MARK J. DENNY,

GREGORY C. LANGHAM
CLERK

Applicant,

v.

B. DAVIS, Warden,

Respondent.

ORDER OF DISMISSAL

Applicant, Mark J. Denny, is in the custody of the United States Bureau of Prisons and currently is incarcerated at Englewood FCI in Littleton, Colorado. On November 26, 2010, Mr. Denny, acting *pro se*, filed an Application for a Writ of Habeas Corpus Pursuant to 28 U.S.C. § 2241. Magistrate Judge Boyd N. Boland entered an order on January 20, 2011, directing Applicant to file an Amended Application. Mr. Denny was instructed that his Application did not comply with Rule 8 of the Federal Rules of Civil Procedure. Magistrate Judge Boland determined that Mr. Denny's Application is prolix and confusing and that it is not clear if Mr. Denny is challenging the conditions of his confinement or the execution of his sentence. Although Mr. Denny failed to comply with Fed. R. Civ. P. 8, Magistrate Judge Boland gave him the opportunity to file an Amended Application.

Upon review of the Application the Court finds that Magistrate Judge Boland correctly determined that Mr. Denny failed to comply with Rule 8. Mr. Denny now has

failed to communicate with the Court has failed to comply with Magistrate Judge Boland's January 20 Order within the time allowed.

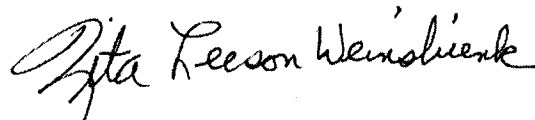
Mr. Denny filed a Letter on January 13, 2011, prior to Magistrate Judge Boland's order to amend, claiming that he is in disciplinary segregation and has no access to a telephone or commissary privileges and is denied visitation rights and his personal property. Mr. Denny does not claim in the Letter that he is being denied access to writing materials or the ability to correspond with the Court. Therefore, the Application will be dismissed. Accordingly, it is

ORDERED that the Application is denied and the action is dismissed without prejudice pursuant to Fed. R. Civ. P. 41(b) for failure to file an Amended Application and for failure to prosecute. It is

FURTHER ORDERED that no certificate of appealability shall issue because Mr. Denny has not made a substantial showing that jurists of reason would find it debatable whether the procedural ruling is correct and whether the underlying claim has constitutional merit.

DATED at Denver, Colorado, this 17th day of March, 2011.

BY THE COURT:



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-02884-BNB

Mark J. Denny
Reg No. 07757-046
FCI Englewood
9595 W Quincy Ave
Littleton, CO 80123

I hereby certify that I have mailed a copy of the **ORDER** and **JUDGMENT** to the above-named individuals on March 17, 2011.

GREGORY C. LANGHAM, CLERK

By: 

Deputy Clerk