

FILED
UNITED STATES DISTRICT COURT
DENVER, COLORADO

MAY 19 2011

GREGORY C. LANGHAM
CLERK

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO

Civil Action No. 10-cv-03150-BNB

BRADLEY D. BROSWICK,

Plaintiff,

v.

ARISTEDES W. ZAVARAS, et al.,

Defendants.

ORDER OF DISMISSAL

Plaintiff, Bradley D. Brosnick, is a prisoner in the custody of the Colorado Department of Corrections who currently is incarcerated at the Buena Vista Correctional Complex in Buena Vista, Colorado. Mr. Brosnick, acting *pro se*, initiated this action by filing two pleadings, one titled "Serving Numerous Defendants" and the other titled "Request for Order From the Court." Magistrate Judge Boyd N. Boland entered an order on January 6, 2011, instructing Mr. Brosnick that he must file his claims on a Court-approved form used in filing prisoner complaints, which he did on January 14, 2011. Upon review of the Prisoner Complaint, Magistrate Judge Boland determined that Mr. Brosnick had failed to assert personal participation by named defendants and to comply with *Nasious v. Two Unknown B.I.C.E. Agents*, 492 F.3d 1158, 1163 (10th Cir. 2007). Magistrate Judge Boland instructed Mr. Brosnick to file an Amended Prisoner Complaint, which he did on April 4, 2011.

On review of the Amended Complaint, Magistrate Judge Boland entered an order on April 13, 2011, instructing Mr. Brosnick to file a Second Amended Complaint.

Magistrate Judge Boland found that the Amended Complaint failed to comply with the pleading requirements of Fed. R. Civ. P. 8 and again failed to comply with *Nasious*.

On April 20, 2011, Mr. Broswick filed a request for a copy of the January 20 Order to provide to the prison business office to obtain a monthly account statement, but he has not submitted a Second Amended Complaint within the time allowed.

On review of the Complaint and the Amended Complaint, the Court finds that Magistrate Judge Boland correctly instructed Mr. Broswick to file a Second Amended Complaint in keeping with *Nasious* and Fed. R. Civ. P. 8. Because Mr. Broswick has failed to file a Second Amended Complaint within the time allowed the action will be dismissed. Nonetheless, because the action will be dismissed without prejudice, Mr. Broswick may proceed with his claims in a new action if he so desires. Accordingly, it is

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

DATED at Denver, Colorado, this 19th day of May, 2011.

BY THE COURT:

s/Lewis T. Babcock
LEWIS T. BABCOCK
United States District Court

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO

CERTIFICATE OF MAILING

Civil Action No. 10-cv-03150-BNB

Bradley D Broswick
Prisoner No. 133047
Buena Vista Correctional Complex
PO Box 2017
Buena Vista, CO 81211

I hereby certify that I have mailed a copy of the **ORDER and JUDGMENT** to the above-named individuals on May 19, 2011.

GREGORY C. LANGHAM, CLERK

By: _____



Deputy Clerk