

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO

FILED
UNITED STATES DISTRICT COURT
DENVER, COLORADO

Civil Action No. 11-cv-00078-BNB

MAR 30 2011

DALE M. RASMUSSEN,

GREGORY C. LANGHAM
CLERK

Plaintiff,

v.

ARI ZAVARAS, Director, Colorado Department of Corrections,
RAE TIMME, Warden, Fremont Correctional Facility,
TIMOTHY P. CREAMY, M.D., Fremont Correctional Facility,
D. HIBBS, N.P., Fremont Correctional Facility, and
M. WALSH, P.A., Fremont Correctional Facility,

Defendants.

ORDER OF DISMISSAL

Plaintiff, Dale M. Rasmussen, is in the custody of the Colorado Department of Corrections (CDOC). At the time of filing, he was incarcerated at the Fremont Correctional Facility in Cañon City, Colorado. Mr. Rasmussen has filed *pro se* a Prisoner Complaint pursuant to 42 U.S.C. § 1983.

In a February 16, 2011 Order, Magistrate Judge Boyd N. Boland granted Mr. Rasmussen leave to proceed *in forma pauperis* pursuant to 28 U.S.C. § 1915. Based on the information Plaintiff provided about his financial status, the court found that he was able to pay an initial partial filing fee of \$8.00 pursuant to § 1915(b)(1). Mr. Rasmussen was ordered to pay the initial partial filing fee within thirty (30) days from the date of the February 16 Order or show cause why he has no assets and no means by which to pay the designated initial partial filing fee. Plaintiff was advised that in order to show cause, he must file a current certified copy of his trust fund account statement.

Plaintiff was warned that if he failed to have the designated initial partial filing fee sent to the clerk of the court within the time allowed, or to show cause as directed in the February 16 Order, the Prisoner Complaint would be dismissed without further notice. On March 8, 2011, the February 16 Order was returned to the clerk of the court as undeliverable. See Doc. No. 9. The envelope is stamped "return to sender - refused - unable to forward." *Id.* The words "Refused/Parole" also appear on the envelope. *Id.*

The Court has independently performed an "offender search" on the CDOC website to ascertain Mr. Rasmussen's status. See www.doc.state.co.us. The search results indicate that Plaintiff has indeed been paroled to the Denver Central Metro Region. No further information is available.

Mr. Rasmussen has not made the initial partial filing fee payment required by the February 16 Order. He has also failed to comply with D.C.COLO.LCivR 10.1M, which requires a *pro se* party to notify the Court of a change of address within five days. Accordingly, it is

ORDERED that the action is dismissed without prejudice pursuant to Rule 41(b) of the Federal Rules of Civil Procedure for the failure of Plaintiff, Dale M. Rasmussen, to comply with the February 16, 2011 Order and to prosecute this case.

DATED at Denver, Colorado, this 23rd day of March, 2011.

BY THE COURT:

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

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO

CERTIFICATE OF MAILING

Civil Action No. 11-cv-00078-BNB

Dale M Rasmussen
Prisoner No. 143008
Fremont Correctional Facility
PO Box 999
Canon City, CO 81215

I hereby certify that I have mailed a copy of the **ORDER and JUDGMENT** to the above-named individuals on March 30, 2011.

GREGORY C. LANGHAM, CLERK

By: 

Deputy Clerk