

**FILED**  
UNITED STATES DISTRICT COURT  
DENVER, COLORADO

**AUG 08 2011**

**GREGORY C. LANGHAM**  
**CLERK**

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IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLORADO

Civil Action No. 11-cv-01956-BNB

CLAUDE DEREK FOSTER,

Plaintiff,

v.

BONNIE GADBERRY, Former Corrections Officer,  
GARY WATKINS, Warden of FCF Colorado Department of Corrections,  
TONY CAROCHI, Director of Prisons for CDOC,  
SUSAN JONES, Associate Warden of Fremont Correctional Facility,  
JAMES HYATTE, Captian [sic] for Fremont Correctional Facility,  
DAN REESE, Lt. for Fremont Correctional Facility,  
ANTHONY DECESARO, Grievance Office for CDOC,  
BRYAN HUNT, Deputy D.A. for Fremont County,  
ALEX WORLD, Investigator for the IG Office in Cañon City, and  
WILLIAM CLASPELL, Investigator for the IG Office in Cañon City,

Defendants.

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ORDER DISMISSING CASE

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Plaintiff, Claude Derek Foster, acting *pro se*, submitted on July 28, 2011, a letter to the clerk of the Court with two attached pages of Defendants' addresses to supplement an amended complaint. Although the letter and attachments did not include a civil action number, it is evident that Mr. Foster intended to file the documents in *Foster v. Gadberry*, No. 10-cv-01067-WJM-MJW, a 42 U.S.C. § 1983 action pending in this Court, because the documents relate to the motion to file amended complaint and proposed amended complaint (ECF No. 108) submitted in No. 10-cv-01067-WJM-MJW on July 29, 2011. As such, this new action was commenced in error.

The Court, therefore, will dismiss the instant action without prejudice and instruct the clerk of the Court to file the documents from this case in No. 10-cv-01067-WJM-MJW. To avoid any confusion, Mr. Foster is directed to include a case number on any documents he submits to the Court in the future, if the documents pertain to a previously filed case. Accordingly, it is

ORDERED that the documents filed on July 28, 2011 in this action be filed in ***Foster v. Gadberry***, No. 10-cv-01067-WJM-MJW. It is

FURTHER ORDERED that the instant action is dismissed without prejudice, and the clerk of the Court is instructed to close this action. It is

FURTHER ORDERED that the clerk of the Court file a copy of this order in No. 10-cv-01067-WJM-MJW. It is

FURTHER ORDERED that Mr. Foster is directed to include a case number on any documents he submits to the Court in the future, if the documents pertain to a previously filed case.

DATED at Denver, Colorado, this 8<sup>th</sup> day of August, 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-01956-BNB

Claude Derek Foster  
Prisoner No. 117725  
Crowley County Corr. Facility  
6564 State Hwy. 96  
Olney Springs, CO 81062-8700

I hereby certify that I have mailed a copy of the **ORDER** to the above-named individuals on August 8, 2011.

GREGORY C. LANGHAM, CLERK

By: \_\_\_\_\_



Deputy Clerk