

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO
Magistrate Judge Boyd N. Boland

Civil Action No. 11-cv-02066-REB-BNB

ROBERT BLACKMAN,

Plaintiff,

v.

MR. TORRES, Correctional Officer,

Defendant.

ORDER

This matter arises on the following:

(1) **Plaintiff Motion In Request for Court to Send Mail to Plaintiff Via “Special Mail”** [Doc. # 17, filed 12/1/2011] (the “First Motion”); and

(2) **Plaintiff Motion In Request to Ascertain a Status Report and for Court to Send Mail to Plaintiff Via Special Mail** [Doc. # 27, filed 1/20/2012] (the “Second Motion”).

I held a hearing on the motions on May 10, 2012, and made rulings on the record which are incorporated here.

The plaintiff claims that correctional officers at ADX-Florence are interfering with his mail to and from this court. In particular, the plaintiff claims that between September 29, 2011, and January 23, 2012, he did not receive any mail from the court concerning this action. During that time, the following five orders or certificates were issued by the court and sent to the plaintiff:

- (1) Order [Doc. # 14, filed 10/28/2011];
- (2) Order Drawing Case [Doc. # 18, filed 12/13/2011];
- (3) Text Entry Order Reassigning Case [Doc. # 19, filed 12/14/2011];
- (4) Certificate of Service [Doc. # 20, filed 12/14/2011]; and
- (5) Order of Reference to United States Magistrate Judge [Doc. # 21, filed 12/16/2011].

The plaintiff also contends that his outgoing legal mail has been tampered with. Specifically, the plaintiff claims to have initiated two additional cases by mailing complaints to the court on October 18, 2011, and October 25, 2011.¹ The court docket reflects receipt of only one additional action in October 2011--Case No. 11-cv-02750--filed on October 21, 2011. The Complaint in Case No. 11-cv-02750 is signed by the plaintiff and dated "10-18-11." Case No. 11-cv-02750 was dismissed without prejudice on December 8, 2011, when the plaintiff failed either to pay an initial partial filing fee or show cause why he could not pay that fee. Order [Doc. # 7]. The Order dismissing the case notes:

Mr. Blackman has failed either to pay the initial partial filing fee within the time allowed, as designated in the November 1 Order or, in the alternative, to show cause why he has no assets and no means by which to pay the designated fee. Indeed, Mr. Blackman has not filed anything with the Court since November 1, 2011.

Id. at p. 2.

The court has not received a complaint dated or mailed on or about October 25, 2011.

I am concerned by the plaintiff's allegations that correctional officers are interfering with

¹The plaintiff initiated still another case on May 8, 2012--Case No. 12-cv-01191-- which is not at issue here.

his mail. My concern is not ameliorated by the Response [Doc. # 46], which does not dispute the plaintiff's factual allegations in any way, and argues instead that the plaintiff has failed to "demonstrate 'actual injury' or 'actual prejudice' to pending or contemplated litigation." *Id.* at p. 3. All parties should note that I will not tolerate any improper interference with the plaintiff's mail to or from the court.

My concerns notwithstanding, there is no reason for this court to send its orders as "Special Mail," nor would that procedure cure any tampering of the nature the plaintiff alleges is occurring.

IT IS ORDERED:

(1) The First Motion [Doc. # 17] and Second Motion [Doc. # 27] are DENIED insofar as they request that the court mark its mail as "Special Mail"; and

(2) The United States Attorney is directed to send to the plaintiff the following materials:

(a) In Case No. 11-cv-02066: the Docket Sheet and Docs. ## 14, 18, 19, 20, and 21.

(b) In Case No. 11-cv-02750: the Docket Sheet and Docs. ## 1-8.

Dated May 11, 2012.

BY THE COURT:

s/ Boyd N. Boland
United States Magistrate Judge