

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO
District Judge William J. Martínez**

Civil Action No. 14-cv-00303-WJM

ROGER DAVID JOHNSON JR.,

Applicant,

v.

WARDEN FALK, Sterling Correctional Facility, and
JOHN SUTHERS, The Attorney General of the State of Colorado,

Respondents.

ORDER

This matter is before the Court on Respondents' June 9, 2014 Response. On June 3, 2014, the Court directed Warden Falk to respond and state what procedure is followed by the Sterling Correctional Facility (SCF) in processing incoming mail to inmates, including general and legal mail. Respondent Falk was further directed to provide documentation as to whether mail from the Attorney General's Office was received by the Sterling Correctional Facility and provided to Applicant during the period from March 6 through May 9, 2014.

Warden Falk provided a response on June 9, 2014. The Response includes a copy of the Colorado Department of Corrections legal mail policy, three documents outlining procedures specific to SCF, and prisoner mail logs for all days Applicant received legal mail during the relevant period.

The Court has reviewed the Response and attachments. Warden Falk does not specifically indicate that mail from the Attorney General's Office is considered legal mail and would be subject to being logged. Since Warden Falk has provided the mail logs

for legal mail received by Applicant during the time in question, and does not state otherwise that it is not legal mail, the Court determines that mail from the Attorney General's Office is identified as incoming legal mail and not general mail, and is subject to restricted inspection and is logged. The incoming restricted inspection mail logs provided by Warden Falk show Applicant received legal mail on April 14, 25, and 28, 2014, and on May 7 and 12, 2014. None of the mail was from the Attorney General's Office.

The Court finds that Applicant did not receive the Pre-Answer Response from Respondents. Accordingly, it is

ORDERED that Respondents shall resend the Pre-Answer Response to Applicant and Warden Falk will notice the Court when the Response is delivered to Applicant. It is

FURTHER ORDERED that the Court will refrain from entering a decision on Applicant's Motion to Rescind Order of Dismissal until twenty-one days from the date Warden Falk notices the Court that Applicant has received the Pre-Answer Response and has the opportunity to file a Reply. It is

FURTHER ORDERED that the Court will refrain from addressing the Motion to Rescind, filed on May 15, 2014, and the merits of Respondents' Answer filed on May 28, 2014, at this time.

Dated this 10th day of June, 2014.

BY THE COURT:



William J. Martinez
United States District Judge