

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO
Senior Judge Walker D. Miller

Civil Action No. 07-cv-00741-WDM-KMT

KYLE DAWKINS, #121311,

Plaintiff,

v.

JIM KEITH, et al.,

Defendants.

ORDER ON MOTION TO REOPEN

Miller, J.

This case is before me on the Motion to Reopen Case (doc no 47) filed by Plaintiff. On August 27, 2008, I ordered (doc no 46) that this case be administratively closed pending Plaintiff's administrative appeal in the Bent County Combined Courts pursuant to Rule 106 of the Colorado Rules of Civil Procedure. Plaintiff now seeks to reopen this matter on the grounds that the state court did not provide an adequate remedy. However, as noted by Defendants, Plaintiff did not prosecute his Rule 106 appeal, failing to timely perfect service on the Colorado Department of Corrections and otherwise not keeping the state court apprised of issues arising out of a new administrative hearing. According to the supplemental materials provided by Defendants (doc no 51), Plaintiff's Rule 106 appeal has been placed on a schedule for designation of the record and briefing of the issues. Since

Plaintiff's Rule 106 administrative appeal is not yet complete, his motion to reopen is premature and will be denied.

Accordingly, it is ordered:

1. Administrative closure in this case shall be extended for one year, subject to reopening after Plaintiff's Rule 106 petition has been finally adjudicated. If the parties do not file a motion to reopen on or before August 4, 2010, this case will be dismissed without prejudice without further notice.

DATED at Denver, Colorado, on August 4, 2009.

BY THE COURT:

s/ Walker D. Miller
United States Senior District Judge