

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO
Judge Robert E. Blackburn**

Civil Case No. 07-cv-02303-REB-KLM

MARK JORDAN,

Plaintiff,

v.

UNITED STATES DEPARTMENT OF JUSTICE,
FEDERAL BUREAU OF PRISONS,

Defendants.

**SUPPLEMENTAL ORDER RE: RECOMMENDATION OF
THE UNITED STATES MAGISTRATE JUDGE**

Blackburn, J.

This matter is before me *sua sponte*. On August 2, 2010, I entered an order [#122]¹ adopting all but one of the recommendations of the assigned magistrate judge, resolving all of the plaintiff's claims in this case and directing the entry of judgment. After that order was entered, I noted that the plaintiff named both the United States Department of Justice and the Federal Bureau of Prisons as defendants in his **Amended / Supplemental Prisoner Complaint** [#26] filed June 9, 2008. My order [#122] does not address the plaintiff's claims against the Federal Bureau of Prisons. To ensure that the record is clear, I enter this order to resolve the plaintiff's claims against the Federal Bureau of Prisons.

I take judicial notice of the fact that the Federal Bureau of Prisons is an agency of

¹ “[#122]” is an example of the convention I use to identify the docket number assigned to a specific paper by the court's case management and electronic case filing system (CM/ECF). I use this convention throughout this order.

the United States Department of Justice. In the context of the plaintiff's claims in this case, the Federal Bureau of Prisons and the United States Department of Justice are, in essence, the same entity. The plaintiff's claims against the Federal Bureau of Prisons properly are resolved on precisely the same bases that his claims against the United States Department of Justice were resolved, as detailed in my August 2, 2010, order [#122]. Under FED. R. CIV. P. 60(a), I enter this order to correct my oversight in failing to address the plaintiff's claims against the Federal Bureau of Prisons.

In addition, I note that the magistrate judge addressed in her recommendation [#104] filed April 19, 2010, the claims asserted by the plaintiff in his **Amended / Supplemental Prisoner Complaint** [#26] filed June 9, 2008. In my order [#122] addressing the magistrate judge's recommendation, I addressed erroneously the plaintiff's **Prisoner Complaint** [#4] filed November 13, 2007, rather than the operative complaint, which is the **Amended / Supplemental Prisoner Complaint** [#26] filed June 9, 2008. Under FED. R. CIV. P. 60(a), I enter this order to correct my erroneous reference to the plaintiff's **Prisoner Complaint** [#4] in my order [#122], and to amend my order [#122] to refer to the operative complaint, the **Amended / Supplemental Prisoner Complaint** [#26] filed June 9, 2008.

THEREFORE, IT IS ORDERED as follows:

1. That as to the defendant named as Federal Bureau of Prisons, the **Recommendation of United States Magistrate Judge** [#104], filed April 19, 2010, is **APPROVED AND ADOPTED** as an order of this court, except insofar as it recommends that defendant's motion for summary judgment as to the adequacy of the search for

documents responsive to Claim II be denied;

2. That as to the defendant named as Federal Bureau of Prisons, the objection stated in **Defendant's Partial Objection to Magistrate Judge's Recommendation** [#106], filed May 3, 2010, is **SUSTAINED**;

3. That as to the defendant named as Federal Bureau of Prisons, plaintiff's objections as stated in the **Objections to Recommendations of United States Magistrate Judge** [#121], filed July 16, 2010, are **OVERRULED**;

4. That as to the defendant named as Federal Bureau of Prisons, **Plaintiff's Motion for Judgment as a Matter of Law** [#81], filed October 1, 2009, is **GRANTED IN PART** and **DENIED IN PART**, as follows:

a. That the motion is **GRANTED** as to Claim II insofar as it seeks production of a ADX staff roster; provided, however, that the names of the employees may be redacted; and

b. That in all other respects, the motion is **DENIED**;

5. That as to the defendant named as Federal Bureau of Prisons, **Defendant's Supplemental Motion for Summary Judgment** [#88], filed November 6, 2009, is **GRANTED IN PART, DENIED AS MOOT IN PART, and DENIED IN PART**, as follows:

a. That the motion is **DENIED** insofar as it seeks summary judgment as to the relief requested plaintiff's Claim II; provided, however, that the ADX staff roster requested by that claim may be redacted to remove the names of the employees listed thereon;

b. That the motion is **DENIED AS MOOT** insofar as it seeks summary

judgment as to Claim V; and

c. That in all other respects, the motion is **GRANTED**;

6. That as to the defendant named as Federal Bureau of Prisons, Claims I, III, IV, VI, VIII, and VIII of the **Amended / Supplemental Prisoner Complaint** [#26] filed June 9, 2008, are **DISMISSED WITH PREJUDICE**;

7. That as to the defendant named as Federal Bureau of Prisons, Claim V of the **Amended / Supplemental Prisoner Complaint** [#26] filed June 9, 2008, is **DISMISSED WITHOUT PREJUDICE**;

8. That judgment **SHALL ENTER** on behalf of plaintiff, Mark Jordan, and against defendant, the Federal Bureau of Prisons, as to Claim II of the **Amended / Supplemental Prisoner Complaint** [#26] filed June 9, 2008, insofar as it seeks an ADX staff roster redacted to remove the names of the employees listed thereon, in accordance with this Order;

9. That judgment **SHALL ENTER** on behalf of defendant, the Federal Bureau of Prisons, and against plaintiff, Mark Jordan, as to Claims I, III, IV, VI, VII, and VIII of the **Amended / Supplemental Prisoner Complaint** [#26] filed June 9, 2008, in accordance with this Order, as well as my **Amended Order Re: Recommendation of the United States Magistrate Judge** [#79], filed September 22, 2009; and

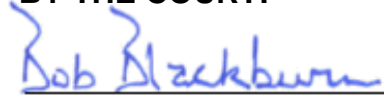
10. That my **Order re: Recommendation of the United States Magistrate Judge** [#122] is **AMENDED** to replace any reference to the plaintiff's **Prisoner Complaint** [#4] filed November 13, 2007, on pages six and seven of that order, with a reference to the plaintiff's **Amended / Supplemental Prisoner Complaint** [#26] filed

June 9, 2008; and

11. That otherwise, my **Order re: Recommendation of the United States Magistrate Judge [#122] SHALL REMAIN** in full force and effect.

Dated August 12, 2010, at Denver, Colorado.

BY THE COURT:



Robert E. Blackburn
United States District Judge