

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO

Civil Action No. 07-cv-02515-BNB

VICTOR S. ARCHULETA,

Plaintiff,

v.

ADAMS COUNTY,
DOUG DARR,
MELONY GREGGORY,
JAMES McKINZIE,
ROBERT NANNEY,
JOHN HINRICHS, and
JOHN OR JANE DOE,

Defendants.

FILED
UNITED STATES DISTRICT COURT
DENVER, COLORADO

FEB 07 2008

GREGORY C. LANGHAM
CLERK

ORDER TO DISMISS IN PART AND TO DRAW CASE
TO A DISTRICT JUDGE AND TO A MAGISTRATE JUDGE

Plaintiff Victor S. Archuleta is in the custody of the Colorado Department of Corrections and currently is incarcerated at the Colorado State Penitentiary in Cañon City, Colorado. On November 29, 2007, Plaintiff submitted to the Court a Prisoner Complaint asserting violations of his constitutional rights. In the Complaint, Mr. Archuleta asserts that while he was held at the Adams County Jail in Brighton, Colorado, Defendants violated his Eighth Amendment rights when they assaulted him and failed to assure he would receive adequate medical treatment. Plaintiff seeks injunctive and declaratory relief and money damages.

With respect to the claims asserted against Defendants Adams County, Doug Darr, Melony Gregory, John Spence, Robert Nanney, John Hinrichs, and John/Jane Doe, the action will be drawn to a district judge and to a magistrate judge.

As for Defendant James McKinzie, Plaintiff fails to state a claim of a constitutional deprivation against Defendant McKinzie. Plaintiff states that Defendant McKinzie violated his constitutional rights when he failed, after he had concluded an investigation of the assault, to ask Plaintiff whether he desired to file a complaint against Defendants. Plaintiff fails to assert any constitutional basis for this claim, and the Court is unaware of any constitutional right that Plaintiff has to be asked if he wants to pursue charges against someone who assaults him. Accordingly, it is


ORDERED that Defendant James McKinzie is dismissed from the action. It is

FURTHER ORDERED that the Clerk of the Court shall remove Defendant James McKinzie from the docketing record as a party to this action. It is

FURTHER ORDERED that the claims asserted against remaining Defendants shall be drawn to a district judge and to a magistrate judge.

DATED at Denver, Colorado, this 7 day of February, 2008.

BY THE COURT:


ZITA L. WEINSHIENK, Senior Judge
United States District Court

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO

CERTIFICATE OF MAILING

Civil Action No. 07-cv-02515-BNB

Victor S. Archuleta
Prisoner No. 128001
Colorado State Penitentiary
PO Box 777
Cañon City, CO 81215- 0777

I hereby certify that I have mailed a copy of the **ORDER** to the above-named individuals on 2/7/08

GREGORY C. LANGHAM, CLERK

By: 
Deputy Clerk